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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Periodic reports due in 1997

Addendum

PORTUGAL*

[8 October 1998]

* For the initial report submitted by the Government of Portugal, see CRC/C/3/Add.30; for the Committee's consideration of the report, see CRC/C/SR.250-252.

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Note by the editor: Some paragraphs and tables containing incomplete or incorrect data or unclear figures will be reissued in a corrigendum to be published under the symbol CRC/C/15/Add.11/Corr.1. These problematic points are marked in the text with an asterisk.

Introductory note

The following report supplements and updates the initial report of Portugal (CRC/C/3/Add.30), submitted to the secretariat on 17 August 1994 and presented to the Committee on the Rights of the Child at its tenth session, on 9 and 10 November 1995. It has been drafted in strict accordance with the general guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention, adopted by the Committee on 11 October 1996 (CRC/C/58).

In order to aid the reader, as the text is rather dense, a heading in italics at the start of each section of the report dealing with a specific topic refers to the relevant paragraph of the 1996 guidelines, where the information required is described. For basic information already provided, the reader is referred to the relevant paragraphs of the initial report, in accordance with paragraph 8 of the guidelines.

I. GENERAL MEASURES OF IMPLEMENTATION

Paragraph 11 of the 1996 guidelines

1. Portugal was one of the first countries to accede to the Convention on the Rights of the Child. The Convention has been ratified, and entered into force in the internal legal order on 21 October 1990. No reservation was entered.

East Timor

2. Portugal is recognized internationally as the Administering Power of the non-self-governing territory of East Timor, which was illegally annexed by the Republic of Indonesia in 1976. As a result of the occupation and the severance of diplomatic relations between Portugal and Indonesia on 7 December 1975, the Administering Power is unable to obtain information on the situation in the territory directly. Nevertheless, on the basis either of information published by the United Nations or of first-hand data gathered by non-governmental organizations, experts or journalists, the Portuguese Government wishes to register its deep concern and a strong protest with regard to the situation of Timorese children. The infant mortality rate is one of the highest in the world, according to the International Labour Organization (ILO); and in 1995, 45.4 per cent of children aged 10 to 14 were working. The constant violation of children's human rights (prison, torture, involuntary disappearance, summary execution), which indirectly places them in situations of permanent trauma, orphanhood, family separation or thrusts responsibilities inappropriate to their age onto them, is a situation that cannot be denied and one of the utmost seriousness.

Paragraph 12 of the 1996 guidelines

3. Portugal having participated in the drafting of the Convention, it realized quite early on that, although there were no major incompatibilities between the national legislation and the Convention, it would be necessary to bring all the legislation on minors into line with the new ideas and solutions put forward in the Convention. However, following preparation of

Portugal's initial report (CRC/C/3/Add.30), the Committee on the Rights of the Child expressed concern regarding the Convention's implementation in the area of the administration of juvenile justice and recommended that steps should be taken to ensure complete compatibility with the principles and provisions of the Convention. Portugal is making efforts, both at the legislative and at the administrative levels, to implement measures that take account of the precepts of the Convention.

4. One of the first decisions taken by the Minister of Justice of the thirteenth constitutional Government, which took office on 28 October 1995, was to appoint on 30 January 1996 a Commission to review sentencing policy, one of whose priority tasks was thoroughly to examine the legislation on minors with a view to bringing its procedures into line with the principles contained in the Convention.

5. The Government also recently decided (Council of Ministers decision No. 193/97, published in the official gazette - *Diário da República* - of 3 November 1977), to embark on reform of the legislation on the protection of children and young people at risk (see below, paras. 28 ff.), which would also involve amending the legislation on civil guardianship, the regulations governing the Minors' Protection Boards, and the legal framework for foster families and homes for children and young people deprived of a family environment.

Paragraph 13 of the 1996 guidelines

6. The Convention has the force of law in the internal legal order, once it has been approved for ratification by the Assembly of the Republic. The basic principles of the Convention are also included in the principles contained in the Constitution of the Republic of Portugal, approved in 1976 following the institution of a democratic political regime in Portugal. However, a number of non-governmental organizations consider that there could be greater consistency between the rights in the two instruments, for example, by including the State's duties towards children in the general section of the Constitution.

7. All the provisions of the Convention may be directly invoked before the courts and applied by the national authorities; in the event of a conflict of laws the Convention takes precedence unless the national legislation is more favourable.

Paragraph 14 of the 1996 guidelines

8. One provision of the national legislation that is clearly more favourable relates to the minimum age of compulsory military service, which is 18.

Paragraph 15 of the 1996 guidelines

9. A number of judicial decisions have invoked the Convention in order to justify a procedure or confirm the fairness of an option. The first case includes decisions to allow a lawyer to intervene in guardianship proceedings before the appeal stage; and the second covers decisions where it has been established that there is a conflict with the parents and it is the opinion of the young person which has prevailed. The latter were cases of parents' abuse of their

authority, and, although the higher interest of the child was already protected by national legislation as a fundamental right, the clarity and relevance of the Convention made it possible to develop and place special emphasis on that interest.

Paragraph 16 of the 1996 guidelines

10. Cases of violations of the rights recognized by the Convention may be reported to the police, who will bring them to the attention of the government procurator or of the Minors' Protection Boards, or report them directly to the juvenile court. Any other case of violation of rights, including ill-treatment or abandonment, may be reported to official services equipped with reception and counselling hotlines (the "green line"), such as the Ombudsman (*Provedor de Justiça*), or to emergency services such as the Family and Children's Support Project (PAFAC). This project is attached to the Office of the High Commissioner for the Promotion of Equality and the Family and has an important role to play with regard to the problem of verifying ill-treatment within the family. It is described in more detail in paragraphs 172 ff. of this report. The office of the government procurator is responsible for representing minors in court. It may initiate proceedings or lodge an appeal against a court decision if it considers that there has been a clear breach of the law. In the Juvenile Court, the representative of the government procurator is known as the children's procurator (*curador de menores*); he may also represent the child and defend the child's best interests, even where there has been no clear breach of the law.

11. The Minors' Protection Boards, created under decree law No. 189/91 of 17 May 1991, take an experimental, non-judicial approach in which the guiding principle is to involve the community in dealing with children deprived of a normal family environment. They work at the municipal level, and start out from the assumption that an interdisciplinary, inter-agency approach is essential to finding the best solution for the child. They are therefore multidisciplinary in nature (a doctor, a psychologist, a social worker, a teacher, a representative of the local authority, a representative of the police and a lawyer). As mentioned above (para. 5), the legal framework of the Minors' Protection Boards is currently under review; the reform aims to improve their functioning and their links with the courts and the public and private services represented there. Their composition and their substantive and territorial jurisdiction will be reviewed in the light of the experience gained and the actual situation on the ground, in order to provide children with the necessary technical and administrative support and appropriate follow-up, both at the local and the national levels.

12. The Ombudsman, to whom any individual may appeal in the event of a violation of rights recognized by the Convention, closely follows issues relating to the situation of children. In a recent recommendation to the Department of Registration and Notarization (No. 68/97, of 8 October), the Ombudsman recommended the registration of the birth of a young person thought to be aged 14, who has been in a home since 24 December 1991; the recommendation cited both the Convention and the International Covenant on Civil and Political Rights. The recommendation was accepted by the Director of the Department of Registration and Notarization on 13 November 1997 in respect of the three issues raised: the child's birth would be registered; he would then be given a name and permission was also given to grant him Portuguese nationality.

Paragraph 17 of the 1996 guidelines

13. The national programme of action prepared in 1992 in follow-up to the Declaration adopted at the World Summit for Children held in New York in September 1990, recommended the implementation of a comprehensive national strategy for children and proposed the establishment of a permanent mechanism responsible for initiating, coordinating and evaluating the programme. Under the programme, and following the work of a group composed of representatives of the ministries of justice, health, education, labour and social security, and foreign affairs and of a number of non-governmental organizations, appropriate mechanisms must be established to compile, analyse and publish, on a regular and timely basis, the data needed to evaluate the social indicators relating to child welfare.

14. A committee was established under the Ministry of Justice to prepare the first report on the implementation of the Convention; it was opened up to representatives from the ministries of education, health and employment and social security. It took part in the meeting of the Committee on the Rights of the Child at which Portugal's report was considered and promoted publication of the Committee's decisions.

15. In this context, the establishment of the Office of the High Commissioner for the Promotion of Equality and the Family is of particular importance. As a "national body whose task is to coordinate the various government services whose functions give them responsibilities in this area, in close collaboration with private social welfare institutions and associations representing families", that office has the following responsibilities as regards children: "To oversee the situation of children by promoting coordinated measures by the competent public bodies, monitoring the activities of non-governmental organizations and supporting the formulation and implementation of policies with a bearing on children's problems" (decree law 3-B/96 of 26 January).

16. Accordingly, the National Commission on the Rights of the Child was established under the aegis of the Office of the High Commissioner, by an order issued on 13 December 1996 (*Diário da República*, second series). This Commission was established for the purpose of systematic monitoring of the progress made with legislative and other measures relating to the implementation of the Convention and also acts as a national focal point for children. During its first year of operation the Commission basically concentrated on preparing this report. Having completed it, the Commission continued its work, focusing not only on gathering information on children and promoting the Convention, and also preparing reports, measures and scientific studies in order to improve the understanding of children and their rights, but in particular on monitoring the above-mentioned legislative measures (see also below, paras. 23 ff.).

17. As there is still no structure allowing effective coordination of the various programmes, those operating nationwide are described below.

(a) "What it means to be a child", a major programme in terms of both scope and objectives, was set up by order of the Ministry of Solidarity and Social Security (*Diário da República* 298, second series, 28 December 1995) and supports preventive- or action-based

projects aiming to integrate children who are at risk or excluded from society or the family, back into the family, society and school and that may help create conditions conducive to achieving those aims (see below, paras. 364-372). The programme is coordinated by the Department of Social Action and aims to facilitate children's harmonious development by promoting their reintegration into the family and improving the self-image of children and their families;

(b) Equally important in terms of relevance, scope and aims, "Education for all" is an interministerial programme coordinated by the Ministry of Education. The programme was established by Council of Ministers resolution No. 21/91, of 16 May 1991, and entered its second phase in 1996. This phase is due to be completed during the 1999/2000 school year. The programme aims mainly to tackle the dropout and failure rates through a number of initiatives; its scope and activities are discussed below (para. 390);

(c) The National Commission to Combat Child Labour, coordinated by the Ministry of Training and Employment, was established under an order dated 10 September 1996. Its tripartite nature, comprising Government, unions and employers, ensures an inter-agency approach, which is the only adequate means of dealing with such a complex problem. The Commission is well aware that tackling school dropout and failure rates is an important prerequisite for combating child labour, and prioritizes direct action in schools in cooperation with local authorities and local offices of the regional social security centres (see below, paras. 32 ff. and 511-512);

(d) Within the Ministry of Health, the National Commission on Women's and Children's Health (the successor to the National Commission on Child Health), which was created by an order dated 10 October 1992, has been directly responsible to the Minister of Health since January 1994. This Commission plays an important role in establishing priorities in the area of children's and young people's health (see below, paras. 105 ff.);

(e) The "School in Safety" programme, launched in 1996 by the ministries of internal affairs and education, involves the security forces in school surveillance. By stepping up school surveillance and coordinating resources, the programme aims to ensure the safety of pupils and schools, including protection of children against sexual exploitation and violence and against abduction; in addition, it aims to help prevent drug use among young people through the deterrent effect normally associated with measures of this kind (see below, paras. 530 ff.).

18. The ministries with specific powers in the area of child protection frequently establish committees to promote actions on behalf of children. Clearly, in the interests of consistency, action must be integrated and coordinated, and many of these committees are drawn from a range of agencies (interministerial in most cases, but also joint or tripartite, i.e. including government and non-government bodies). However, the desirability of establishing a coordinating mechanism at the national level, in order to give effect to the contents of the preamble to the order establishing the Office of the High Commissioner for the Promotion of Equality and the Family, has been recognized since the order does not in fact give the Office such powers.

19. An important step was taken towards the adoption of a comprehensive strategy with the establishment of a working group under a joint order issued by the Ministers of Justice and Social Security with a view to bringing together all ministerial and interministerial programmes relating to children. We hope that, when its conclusions and proposals have been examined, it will not be long before child policy in Portugal is properly coordinated.

20. In addition, the Government considers it very important to enable young people to be involved in defining policies relating to them. The Secretariat of State for Youth, in particular, is responsible for encouraging young people to get involved, on the basis that they are full citizens and agents of social and cultural change. On the assumption that young people must be constantly involved in defining, implementing and evaluating youth policy, it was felt necessary to modify the Portuguese Youth Institute's philosophy, and therefore its legislative framework, by allowing young Portuguese to take part in the Institute's work and in the running of youth clubs. It is the first time that a State body has been run by representatives of central Government and young people together. In the same vein, it was felt necessary to adapt the Youth Advisory Council, which is part of the Office of the Prime Minister so as to enable young people to play an effective part in its work of consultation and follow-up on government action.

21. Another initiative of the Secretariat of State for Youth was the first national conference on youth policy, held in May 1996, which produced a final document that was to form the basis of a "strategic pact for the 21st century". The pact would be concluded between youth associations and the Government in 1997 with the aim of finding innovative solutions to young people's problems. In order to encourage youth associations in their work of socialization and teaching democratic values, a programme to support youth associations has been set up, together with the "Initiative Programme".

22. The Portuguese Youth Institute is aiming to set up a youth association in every commune, so that young people can organize themselves and take part in various activities. In 1996, the number of youth associations increased by 25 per cent. To gather data that will give a true picture of the situation of young people, the Support, Research and Planning Office has been established together with the Permanent Observatory of Portuguese Youth, which is now analysing the first data.

Paragraph 18 of the 1996 guidelines

National Children's Rights Commission

23. The Office of the High Commissioner for the Promotion of Equality and the Family is under the aegis of the Office of the Prime Minister. Its powers are laid down in decree law No. 3-B/96 of 26 January, article 2, paragraph (d). That provision made it possible to establish the National Commission on the Rights of the Child, which took note of the recommendation of the Committee on the Rights of the Child that Portugal should strengthen coordination and monitoring between the different governmental mechanisms involved in children's rights, and promote closer cooperation with non-governmental organizations.

24. The National Commission on the Rights the Child is coordinated by a lady magistrate from the government procurator's office detached to the Office of the High Commissioner and is made up of a technical team from the Office of the High Commissioner and of representatives of the ministries of justice, education, health and social welfare, and of non-governmental organizations with an interest in children and youth. Its powers are defined in the order of the Office of the High Commissioner published in the *Diário da República*, second series, of 30 December 1996: it systematically gathers data and studies on children that make it possible to monitor and evaluate the implementation of the Convention on an ongoing basis. In view of the short time available, the Commission decided to prioritize the gathering of information and statistics for this report. It has not forgotten, however, that one of the tasks assigned to it by the order under which it was established is to "play a major role in providing information on children's rights, particularly to professionals working with children and youth and to children themselves".

25. Its systematic gathering of information on the situation of children means that the Commission is particularly well-placed actively to monitor the implementation of the Convention and can therefore be regarded as an observatory. During the current year, the Commission made contact with State services and non-governmental organizations, requesting their help in the preparation of this report. It believes such inter-agency cooperation should be extended and become part of the normal working methods of government and non-government agencies (see below, paras. 51 ff.).

26. Early in 1997, the Office of the High Commissioner for the Promotion of Equality and the Family launched a huge campaign, jointly with the "Education for all" programme (see para. 17 (b)), to publicize the Convention in every school in the country. The campaign was extended to cover pre-school establishments in 1997/1998. The Department of Education and Innovation, through the department of basic education, extended this campaign to pre-school and primary establishments jointly with the Portuguese UNICEF committee, which published a poster and leaflet in time for the International Day of the Child celebrations. The text of the Convention on the Rights of the Child was publicized through a competition entitled "I am young, I have rights", which is still running; strip cartoons have also been used for this purpose.

27. The ministries with competence in areas covered by the Convention, include the ministries of education, health, solidarity and social security, justice, training and employment and internal affairs. There is also the Secretariat of State for Youth, which is directly responsible to the Prime Minister. Some of these ministries are represented on the National Commission on the Rights of the Child. In the next stage, when this report has been submitted, the intention is to extend the Commission not only by including representatives of other ministries but also by inviting a number of prominent individuals and non-governmental organizations to join a consultative committee, in order to enhance the Commission's impartiality.

National Commission for the Protection of Children and Young People at Risk

28. The Government recently decided (Council of Ministers resolution No. 193/97, of 3 November), to launch an interministerial and inter-agency process of reform of the system of protection of children and young people at risk, with five main components: (a) legal reform,

(b) institutional framework, (c) coordination of social action, (d) audits and studies and (e) launch and coordination of the reform. The National Commission for the Protection of Children and Young People at Risk was created for this task.

29. The Commission "shall include representatives of public and private bodies involved in this field"; its tasks are as follows (*Diário da República*, No. 254, first series B, 3 November 1997):

> "(a) To assist with amending legislation;
>
> (b) Mainly as part of the Social solidarity cooperation pact, to promote links between the minors' protection boards, the government departments involved in this area and private social welfare institutions or other private bodies;
>
> (c) To encourage the establishment of interdisciplinary teams to deal with children and adoption and ensure specialized training for them;
>
> (d) To promote the establishment of emergency reception centres in zones where they are found to be necessary and where there are problems warranting such facilities;
>
> (e) To prepare and coordinate the transfer of minors and human, physical and financial resources from the justice system to the social welfare system;
>
> (f) To request and coordinate audits and studies to analyse and evaluate deficiencies, measures and social action;
>
> (g) To coordinate action by all public and private bodies, mechanisms and action programmes dealing with children and young people at risk;
>
> (h) To monitor and support the minors' protection boards."

30. The initial report of Portugal (CRC/C/3/Add.30) discussed the special service for receiving and handling complaints from children, which was set up in 1992 by the Ombudsman. This service operates mainly through a direct telephone line, "Messages from children": this is not an emergency line but a service providing technical and personal guidance on children's rights and the best way to secure them. In 1996, nearly 2,700 calls were made, to the "green line" as compared with some 4,500 in 1995. During 1996 and particularly 1997, the number of frivolous calls diminished sharply, and the situations described were considerably more serious. According to the information provided by the Ombudsman, children call basically during the school term, taking advantage of break time or school holidays, or when they are alone at home. Sometimes it is during an informal chat that a child reports a risk situation that is the real reason for the call. On average, four out of five cases are resolved satisfactorily. Fewer than 2 per cent of requests for help are complex enough to give rise to a formal procedure that is transferred from the "green line" to the competent services of the Ombudsman.

Paragraph 19 of the 1996 guidelines

31. In 1997, to mark International Children's Day, the National Commission on the Rights of the Child, jointly with Lisbon municipality, organized a meeting attended by a number of schools, where young people were able to say what they thought about their rights and who to protect them. The success of this initiative, in which the Office of the Ombudsman ("green line") was also involved, was due in no small part to the efforts of civil society, especially teachers, psychologists and, of course, the children, who were enthusiastic participants.

National Commission to Combat Child Labour

32. The National Commission to Combat Child Labour, too, includes union and employer representatives; since mid-1997, two non-governmental organizations, the Child Support Institute (IAC) and the National Federation for Action on Child Labour, have also taken part in the plenary meetings: because of their experience in this field, their contribution has been regarded as particularly important. The Commission presents periodic reports to Parliament to enable progress to be evaluated. The system of periodic reports is one that should be encouraged and extended, since it enables progress to be assessed and priorities to be identified or simply confirmed.

33. In 1993 Parliament requested the Government for detailed information on the situation in Portugal regarding the ill-treatment of children. Recognizing that there was a lack of data on this subject, the Government commissioned, through the Centre for Judicial Studies, a team of university researchers to conduct a study, the conclusions of which were submitted in 1996. At that time, given the receptive attitude to this parliamentary initiative, it would have been desirable to have set up a system for the regular provision of information to Parliament. It is important that studies of this type be widely disseminated and conducted on a regular basis to ensure that a comprehensive range of data on the issues in question is available and constantly updated.

Paragraph 20 of the 1996 guidelines

Grants allocated

34. Notwithstanding the progress achieved, including in raising awareness of the need to assign coordination functions in the area of child welfare, no breakdown of State budgetary arrangements exists which would permit identification of social expenditure for children, covering health, social protection and education. It is possible, however, to indicate these expenses in a fragmentary fashion: table 1 below shows the social expenditure on children in the social security budget.

Table 1

Year	Social security budget: current expenditure (thousands of escudos)	Expenditure on children and young people (thousands of escudos)	Percentage of total budget
1994	1 341 863 000	40 807 205	3
1995	1 465 453 852	45 853 941	3

Source: Department of Social Action, based on the social security budget.

35. In reporting on its activities the National Commission on the Rights of the Child will highlight the need for a clearer delimitation in the State budget of allocations for children. The Commission also intends to suggest to the Office of the High Commissioner that it include among its members a representative of the Ministry of Finance, if possible from the State Budget Secretariat.

Paragraph 21 of the 1996 guidelines

36. With regard to the provision of benefits, radical measures have recently been taken to ensure that the benefits are fairer and more evenly distributed. This matter will be further considered below in the section of the present report dealing with social security (chapter VI, section C, paras. 350-362).

Cooperation with Portuguese-speaking countries

37. Following the decolonization process set in motion following the establishment of a democratic system in Portugal, cooperation with the new Portuguese-speaking countries has increased, through the implementation of development programmes, in particular in the area of aid for children. Since health and education are the priority areas in this solidarity-building cooperation, it is appropriate to draw attention to the contributions of the United Nations International Children's Fund (UNICEF) and the World Health Organization (WHO) (see table 2 below).

Table 2

	1995		1996	
	Millions of US dollars	Percentage of total	Millions of US dollars	Percentage of total
I. European official development assistance	165.72	64.35	157.04	72.06
(a) Health sector	6.80	2.64	8.53	3.91
(b) Education sector	30.92	12.01	30.79	14.13
(c) Government and civil society	5.21	2.02	4.28	1.96
(c) (i) Assistance for the promotion of democratic[a] development	0.54	0.21	0.75	0.34

	1995		1996	
	Millions of US dollars	Percentage of total	Millions of US dollars	Percentage of total
(d) Other social sectors	5.69	2.21	6.32	2.90
(e) Economic infrastructure and services	8.44	3.28	9.28	4.26
(f) Production sectors	7.07	2.75	10.10	4.63
II. Multilateral official development assistance	91.81	35.65	60.89	27.94
(a) UNICEF	0.00	0.00	0.10	0.05
(b) UNESCO	0.94	0.37	0.26	0.12
(c) WHO	0.82	0.32	0.88	0.40
Total official development assistance	257.53	100	217.93	100
Official development assistance as a percentage of GNP	0.25		0.23	

Source: Ministry of Foreign Affairs.

[a] Covers the following activities: assistance for the electoral process and election monitoring; strengthening the judicial system; sound governance (activities to promote the accountability, effectiveness and efficiency of the public sector and an efficient and fair administration system at all levels of public service; human rights protection.

38. International cooperation in this area has three essential aspects:

(a) Intergovernmental cooperation, through bilateral or multilateral agreements;

(b) Cooperation between local communities, usually through twinning or partnership agreements, with a view to promoting decentralized development-oriented activities;

(c) Cooperation through non-governmental organizations, focusing primarily on specific activities.

39. In 1994, the Portuguese Cooperation Institute set up a special fund, which operates under UNESCO and has a total balance of $330,000. The fund is intended for African countries whose official language is Portuguese and is to be used to help fund projects proposed by UNESCO. Portugal has already co-funded two UNESCO projects, one an emergency education programme for child victims of the war in Angola ($187,369) and the other a project for children with special needs in African countries whose official language is Portuguese ($80,000).

Table 3

Official development assistance

Geographical distribution of bilateral ODA

(1990-1995)

Country	1990	1991	1992	1993	1994	1995
Angola	10.9	7.8	6.9	12.5	9.3	17.3
Cape Verde	14.9	9.4	7.4	9.0	8.0	7.7
Guinea Bissau	14.3	10.0	6.8	8.2	39.6	9.3
Mozambique	41.1	61.4	67.8	57.4	18.4	37.1
Sao Tome and Principe	15.6	6.2	6.5	5.4	4.2	32.7
Various	3.2	5.2	4.6	7.5	20.5	5.9
Total	100.0	100.0	100.0	100.0	100.0	100.0

Source: Ministry of Foreign Affairs.

At the bilateral level, mention must be made of the support provided by the National Children's Institute for Angola (INAC), in the form of the donation of medicines, toys, clothes and footwear.

40. Activities of this type also depend on the collaboration of non-governmental organizations, among which we should note the special activities conducted by the Child Support Institute (IAC) and the Portuguese Committee for UNICEF, through their regular participation in solidarity campaigns and also through the Pro Dignitate foundation. In 1995, IAC set up a special working group for cooperation with Angola (INAC), with a view to developing a project for children in such areas as mother and child health, education and recreational activities, as well as for supporting orphans and street children. This working group, on the invitation of INAC, has already participated in several meetings (including at the international level) forming part of the cooperation and international solidarity efforts in this area.

41. In 1996, IAC assisted with the establishment of a children's library in Luanda, Angola, by donating books on a range of different subjects. The institute also participated in the project on the theme "A world of love" - an initiative of the anti-apartheid movement - by sending clothes, shoes and toys to Angola. Also in 1996, IAC established close links with the Institute for the Support of the Child in Sao Tome and Principe and organized a training course for persons dealing with street children in Cape Verde, which was conducted by trainers from the Street Project, in collaboration with the Cape Verdean Institute for Minors. These projects, whose object is the social rehabilitation of street children, were co-funded by the Portuguese Cooperation Institute.

42. Other non-governmental organizations such as Cooperação e Desenvolvimento (OIKOS), International Medical Assistance (IMA), the Pro Dignitate Foundation and the Amilcar Cabral Documentary and Information Center (CIDAC) receive support from the Portuguese Cooperation Institute for development projects. An initiative to address the sexual abuse of children by members of United Nations peacekeeping forces and staff of other international organizations, jointly organized by Civitas, Pro Dignitate and CIDAC, is currently being carried out. One of its primary aims is to have the United Nations Code of Conduct translated into Portuguese and distributed to members of the Portuguese armed forces.

43. Mention should also be made here of the Institute of Education Communities (ICE), which, together with Seixal Municipal Council, organized a course on the issue of women and children, with particular reference to cooperation projects in Portuguese-speaking countries, held from 14 to 18 April 1997 with the participation of a number of Portuguese, African and Brazilian non-governmental organizations. This course, which was coordinated by ICE, was also promoted by the Institute for Development Studies (IED), the Higher Institute of Labour and Business Studies (ISCTE), the Pro Dignitate foundation, Setúbal Teachers Training College, the Office of the High Commissioner for the Promotion of Equality and the Family and IAC. The Seixal Municipal Council, which has succeeded in involving these highly regarded institutions in various community projects, has undertaken to set itself up as a forum for discussion and the exchange of experience, with a view to establishing a network from which activities may be developed in other Portuguese-speaking countries.

Paragraph 22 of the 1996 guidelines

44. The citizens of Portugal speak only one language, Portuguese. Most immigrants living in Portugal come from African countries whose official language is Portuguese: accordingly, translating the Convention into other languages is not considered a priority. It is acknowledged, however, that a large number of immigrant children (primarily in the Cape Verde community) have great difficulty understanding Portuguese; the situation needs further study so that a decision can be made about translating the Convention into other languages. Its translation into Tetum would also help promote its dissemination in Eastern Timor.

45. The Office of the High Commissioner for the Promotion of Equality and the Family has hitherto encouraged comprehensive dissemination of the Convention. In addition to reproducing and distributing copies of the Convention in all schools in the country, the Commission regularly participates, on behalf of the Office of the High Commissioner, in radio programmes and, occasionally, also in television programmes in which such highly topical issues as the rights of the child, ill-treatment and adoption are discussed. In the campaign to disseminate the Convention, copies were distributed to pupils and teachers in primary and secondary schools. In addition, hundreds of copies were sent to local authorities (municipalities and councils at the parish, district and regional levels). In all, 20,000 copies of this edition were printed.

46. The National Commission on the Rights of the Child has prepared a training programme for teacher trainers on the historical, legal, health-related, psychological and educational aspects of the Convention. The programme was launched in 1998, as part of the "Focus" programme of the Ministry of Education. In time it will be extended to all teacher-training colleges, and other similar activities will be undertaken in other sectors.

47. The Ministry of Solidarity and Social Security has also undertaken training activities for personnel working in the childcare and youth sector covering the subject of the Convention on the Rights of the Child. In 1995 the Convention was studied in a training course on "the problems of children and juveniles" and was also covered in workshops on the subject of "children and young people at risk"; other, activities on a lesser scale dealing with children's issues have also been organized at the local level.

48. The Ministry of the Internal Affairs is also making efforts to promote awareness of the Convention. Thus, special training in this area is provided at the police and Republican Guard colleges. The various colleges for members of the security forces currently include in their curricula two subjects relevant to the rights of the child: "Fundamental rights and human rights", which refers to the Convention, and "The rights of minors" which looks closely at the law applicable under the Portuguese legal order and refers to the Convention as the instrument which sets out the rights of the child.

49. In addition to organizing events to mark International Children's Day, the National Commission on the Rights of the Child has also been involved in other activities around the country primarily intended for children, young people and - above all - teachers. Particular note should be taken here of a programme mounted in December 1996, in which hundreds of children in the second and third school cycles after a period of study, were invited to give their views on violence, and in particular on violence on television, in the light of the principles of the Convention. A questionnaire was circulated to dozens of schools and the youngsters came together in a students' forum to draft their conclusions on these issues.

50. This forum, which is an initiative of the Padre António Vieira University, has strong traditions in the information field. The university has an information centre on student and youth matters, at which recent information is available on colleges and courses and on appropriate job opportunities. The centre participates twice a year in the international fair in Lisbon with a stand providing up-to-date information on entry conditions and course curricula and also organizing symposiums and cultural gatherings. The last such exhibition by the centre was held from 14 to 18 December 1996 and support for its above-mentioned activities relating to the application of the Convention, which sought association with the immense following around the students' forum, was provided by the Pro Dignitate foundation. The ministries of health and education also collaborated in the activities.

Paragraph 23 of the 1996 guidelines

51. In preparing this report, contributions were first obtained from the ministries represented in the National Commission on the Rights of the Child, which provided detailed reports on measures taken in their respective areas of activity. Thus, the Ministry of Solidarity and Social Security sought collaboration from all its services at the central, regional and local levels; the Ministry of Education set up a team to gather data for the preparation of the report; and the Ministry of Health analysed information compiled by the National Commission on Women's and Children's Health, which has also been used in preparing a book entitled: *Health of the Portuguese* recently published by the Department of Health. The Ministry of Internal Affairs, the Secretariat of State for Youth, the Youth Institute, the Secretariat of State for Housing,

the Secretariat of State for Cooperation, the Office of the High Commissioner for Immigration and Ethnic Minorities, the Ombudsman and, lastly, Parliament also collaborated in this exercise. A large number of non-governmental organizations were also invited to participate.

52. Portugal's initial report (CRC/C/3/Add.30) and the concluding observations adopted by the Committee on the Rights of the Child following its consideration of the State party report have been published in the journal *Children and Young People*. The Commission realizes that insufficient copies of the initial report were distributed and intends to take steps to ensure that the second report is very widely distributed, in view of its vital importance as a means of promoting the Convention itself.

II. DEFINITION OF THE CHILD

Paragraph 24 of the 1996 guidelines

53. Where the definition of the child is concerned, Portuguese legislation does not differ from the Convention, as in Portugal the age of majority for civil purposes is 18. The legal framework already described in the initial report has been maintained, and none of the relevant provisions have been changed. Reference is therefore made to chapter II of that report (CRC/C/3/Add.30, paras. 14-20).

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

Paragraph 25 of the 1996 guidelines

54. The principle of non-discrimination is enshrined in article 13 of the Portuguese Constitution, article 69 of which specifically enunciates the right of children to protection by society and the State against any form of discrimination. Here too, the previous report provides all the relevant information relating to the legal framework upholding the principle of non-discrimination; attention is drawn, therefore, to chapter III, section A, of that report (paras. 24-26).

Paragraph 26 of the 1996 guidelines

Office of the High Commissioner for Immigration and Ethnic Minorities

55. A measure of particular political significance in the practical implementation of the principle of non-discrimination was the establishment of the Office of the High Commissioner for Immigration and Ethnic Minorities. Recognizing that the increase in the numbers of immigrants was causing social tensions which could not be ignored and anxious to promote mutual respect, by combating intolerance and discrimination, the Government created this national-level body with the mandate of monitoring the provision of support for the integration of immigrants. The Office of the High Commissioner was established by decree law No. 3A/96

of 26 January and falls under the authority of the Office of the Prime Minister. In its preamble, this instrument declares that the need to combat racism and xenophobia poses a new challenge for Portugal, which, having now become a country of immigration, must learn to prevent those immigrants from becoming marginalized. If efforts to integrate immigrants are to succeed, particular weight must be placed on education through measures involving families, schools and social structures.

56. The Office of the High Commissioner is called upon to promote research into the subject of the resettlement of immigrants and ethnic minorities and consultation and dialogue with bodies representing immigrants or ethnic minorities, in cooperation with the social partners and private welfare institutions. The Office's tasks include the following:

(a) Helping to improve the living conditions of immigrants, so as to facilitate their social integration, with due respect for their identity and their culture of origin;

(b) Helping ensure that all persons legally resident in Portugal enjoy the same dignity and equal opportunity, so as to eliminate discrimination and to combat racism and xenophobia;

(c) Monitoring the action of the different services of the public administration competent in regard to the entry, stay and departure of foreign citizens in Portugal;

(d) Collaborating in the formulation of active policies to combat exclusion, and helping promote the implementation and follow-up of those policies, by encouraging departmental and interdepartmental action by the services of the public administration and the government departments involved in this sector;

(e) Proposing measures, notably of a regulatory nature, to support immigrants and ethnic minorities.

Situation of Gypsies

57. Another measure of particular importance to implementation of the principle of non-discrimination was the creation of the Working Group for the Equality and Insertion of Gypsies (Council of Ministers resolution number 157/96 of 19 October 1996), which was set up to study the difficulties faced by Gypsies in achieving integration into Portuguese society and to develop proposals to help to eliminate situations of social exclusion. Working under the chairmanship of the High Commissioner on Immigration and Ethnic Minorities, the Working Group submitted a report in January 1997, which recognized that there was a tendency in Portuguese society towards exclusion and indifference towards Gypsies.

58. The report stated that the Gypsy community in Portugal faced severe problems of social, economic, cultural, and even political exclusion. The lack of occupational skills, low literacy levels and the failure rate among young people made for poverty and destitution among the Gypsies. This social situation, compounded by other phenomena, such as poor living conditions, lack of means of subsistence and high levels of drug use and involvement in drug trafficking,

further stigmatizes the Gypsies. Working together, all these factors have created a very difficult situation and are responsible for the group's extreme social vulnerability. One of the main problems faced by the Gypsies is that of access to the labour market owing to the lack of job alternatives.

59. According to a study conducted between March and September 1994 by the Lisbon Diocesan Secretariat of the National Department for the Pastoral Care of Gypsies, there were some 6,000 Gypsies in the Lisbon area. They formed a young population (44 per cent under 15 years of age); 50.6 per cent lived in slum areas, 69 per cent lived off peddling and 20 per cent had no occupation. Only 62 per cent of Gypsy children were registered with schools and the attendance of half of these children was very irregular, with very poor educational performance. Nearly 50 per cent of the children, from 10 to 14 years of age, did not attend school at all. Where school attendance is concerned, preference was given to boys, for entrenched cultural reasons. The vast majority of those children did not attend kindergartens or crèches.

60. In this context, several recent initiatives should be noted:

(a) With regard to housing, certain innovative measures, albeit of limited scope, have permitted a more effective response to the housing needs of Gypsy citizens, such as providing homes with a spatial layout more appropriate to their occupants' cultural characteristics;

(b) Where employment promotion is concerned, a cooperation agreement has been concluded between the Employment and Occupational Training Institute and Santa Casa da Misericórdia in Lisbon, entitled "social and economic integration of young Gypsies". Under this agreement, 200 young Gypsies will be able to undergo vocational training for a period of two years in the fields of social and educational training;

(c) In the area of intercultural education, several measures have been taken, including the preparation of a teacher's guide for the first cycle of secondary education, containing useful suggestions on teaching approaches, and the translation of several works on tolerance and human rights; in addition, a number of intercultural educational projects have also been launched. It should also be noted that several of the projects making up the National Anti-Poverty Programme specifically address the Gypsy population, and that Gypsies are the beneficiaries of some pilot projects under the guaranteed minimum wage scheme.

Paragraph 27 of the 1996 guidelines

Guaranteed minimum wage

61. Various measures have been adopted to reduce economic, social and geographical disparities, among which the guaranteed minimum wage scheme has had the most immediate and far-reaching effects. Designed as a priority component of the campaign to combat social exclusion, this measure places obligations on the State, private social welfare institutions, local communities and citizens. The guaranteed minimum wage scheme has two components: the first is the provision of social benefits and the second is the social integration programme, aimed at the empowerment of families.

62. An experimental programme of pilot projects was launched in June 1996, and in July 1997 it was extended throughout the country. Table 4 relates tc the first phase of the pilot project programme, the outcome of which has been very positive in such areas as the support of local communities, institutions and beneficiaries.

Table 4

Guaranteed minimum wage: pilot project implementation

Region	Number of projects	Projects approved		Projects rejected	
		Families	Persons	Families	Persons
North	46	1 094	3 355	628	1 696
Centre	38	1 912	5 750	734	2 028
Lisbon and Tagus Valley	45	1 415	4 483	521	1 680
Alentejo	9	237	791	276	698
Algarve	6	291	1 048	109	275
Azores	12	727	3 703	276	1 181
Madeira	12	608	2 568	444	1 560
Total	168	6 284	21 698	2 988	9 118

Source: Technical Support Office of the National Minimum Wage Commission, April 1997.

63. Table 5 below contains data relating to the number of persons benefiting from the integration programme.

Table 5

Distribution by integration sectors of beneficiaries of the integration programmes

	Integration sectors	No. of beneficiaries
Education	Compulsory schooling	1 146
	Regular teaching	673
	Pre-school	1
	Special education	10
	Extramural activities (teaching and courses)	41
	Psychological support	5
	Monitoring of school attendance	105

	Integration sectors	No. of beneficiaries
Vocational training	Initial - apprenticeship	128
	Initial - qualification	104
	Vocational training for the unemployed	99
	Special vocational training	34
	Educational guidance	10
	Electro-mechanical technologies: Special training	1
	On-the-job training	13
	Job-finding sessions	18
Employment	Job creation or business start-up	44
	Entry into job market	453
	School/workshop	1
	Job finding support/job club	67
	Vocational programmes	317
	Revitalizing vocational activities	38
Health	Consultations/treatment	706
	Detoxification/alcoholism /drug addiction	142
	Family planning	80
	Follow-up/prevention	97
	Training in health matters	106
Social welfare	Infant carers/family crèches/crèches	5
	Leisure activities	252
	Psychological and social support	187
	Kindergartens	1 234
	Household training and management	28
	Training for family helpers	6
	Home help	4
	Day centres	18
	Applications for social benefits	5
	Social and family education	13
	Information and guidance	107
	Regularizing situation of minors - courts	7
		5

Source: MSSS/RMG/97.

64. Given its importance for the principle of non-discrimination, mention should be made here of the National Anti-Poverty Programme, which is targeted against such vulnerable groups as the unemployed and, in particular, women.

Situation of women

65. It is recognized today that the promotion of women is an essential precondition for the healthy upbringing of children and for social progress in general; accordingly, new impetus has been given to activities in such areas as vocational training, literacy education, and support for local crafts and other traditional forms of production, and support is also being provided for projects to modernize the agricultural sector and to revive small farming and fishing concerns, which has resulted in the creation of more than 1,000 new jobs.

66. Among the non-governmental organizations working to reduce geographical disparities, mention should be made of the Child Support Institute, engaged in awareness-raising activities on the rights of the child and which, through its "SOS for Children" telephone service (set up in 1988), has already provided support, information, counselling and guidance in a wide range of cases involving children and young people at risk. This service, which is provided in confidence and anonymity, is provided on an individualized basis and is available throughout the country. The telephone service is operated by specialists trained in social and human sciences (psychologists, social workers and teachers).

Table 6

Data on the "SOS for Children" service for 1996

Age	No. of calls
4	7
5 - 6	6
7 - 10	55
11 - 13	100
14 - 16	125
17 - 18	82
Not known	25

Paragraph 28 of the 1996 guidelines

67. The thirteenth constitutional Government is similarly concerned about the commitments entered into at the Fourth World Conference on Women. The first major step taken in response was the establishment of the Office of the High Commissioner for the Promotion of Equality and the Family: the basic Act establishing this body recognized that it was not sufficient merely to proclaim equality and stressed the need, in the interests of strengthening the democratic system, to ensure that women were able to give effect to their rights.

Equality between men and women

68. The resolution adopted by the Council of Ministers on 6 March 1997 on the equality of men and women is of particular importance. On the premise that priority shall be accorded to policies designed to promote equality between men and women, the implementation of the resolution is set as an indispensable precondition for the promotion and development of citizenship.

69. This Council of Ministers also approved a comprehensive equal opportunity plan, incorporating the following measures:

(a) Prevention of violence and protection against violence:

(i) Establishment of shelters for women victims of violence, to receive, shelter and provide appropriate information for them;

(ii) Introduction in the curriculum of police training courses of matters relating to the psychological and social effects of domestic violence on the victims and on the family structure;

(iii) Establishment of family mediation centres;

(b) Reconciliation of family life with working life:

(i) Policies to encourage affirmative action by enterprises;

(ii) Organization of awareness-raising campaigns for the public;

(c) Health: support for measures to prevent teenage pregnancy and promotion of such measures in schools, health centres and hospitals as well as through sex education and family planning;

(d) Education, science and culture:

(i) Preparation of textbooks and other teaching and cultural materials which convey non-stereotyped images of men and women;

(ii) Design of school curricula to ensure that due attention is paid to the complementary roles of men and women in society and in the family, with a view to overcoming all forms of discrimination, including that regarding the traditional division of roles between the sexes;

(iii) Incorporation of sex education modules in school curricula, as part of health education programmes;

(iv) Introduction, in vocational training and careers, of non-stereotyped options, offering young people guidance and appropriate training in intermediate and higher-level courses, and in preparation for subsequent job openings.

70. Also in response to commitments entered into at the Fourth World Conference on Women, in the fourth revision of the Constitution (Constitutional Act No. 1/97 of 20 September), article 9 designates the promotion of equality between men and women as a fundamental task of the State. The inclusion of this new provision in the general section of the Portuguese Constitution and, more particularly, in that part of the Constitution which sets forth the fundamental principles, is an important step forward.

71. The attribution of this responsibility to the State reflects the far greater respect accorded to the issue of equality between the sexes as a precondition for political democracy. Accordingly, this measure, which was adopted in response to a popular movement and is not yet as widely evident as one might wish, but which manifests itself primarily by its effects, has been accompanied by other legislative measures, including, in particular:

(a) Act No. 17/95 of 9 June 1995, amending Act No. 4/84 of 5 April 1984, on the protection of motherhood and fatherhood;

(b) Decree law No. 332/95, of 23 December 1995, regulating Act No. 17/95 in the light of amendments made in relation to the system of holidays;

(c) Decree law No. 333/95, of 23 December 1995, also regulating Act No. 17/95, with regard to the system of benefits and allowances payable during the holidays established by the decree law referred to above;

(d) Act No. 10/97, of 12 May 1997, strengthening the rights of women's association;

(e) Act No. 105/97, of 13 September 1997, relating to the right to equal treatment and in the fields of work and employment and introducing major amendments providing for a more adequate monitoring system to address all types of discrimination.

Paragraph 29 of the 1996 guidelines

72. As a comprehensive measure to promote equality, stress has been placed on the need to identify the sex of the persons concerned in all performance appraisals and statistical compilations, so as to improve planning and implementation of various sectoral measures. For the purposes of implementing this measure, a representative of the Office of the High Commissioner for the Promotion of Equality and the Family (whose appointment has not yet been confirmed) will be nominated to the Higher Statistical Council.

Paragraph 30 of the 1996 guidelines

73. The Ministry of Education, working together with the Office of the High Commissioner for Immigration and Ethnic Minorities, is conducting awareness-promoting activities designed to break down prejudices and prevent behaviour conducive to social or ethnic tension. An example of such an activity was the symposium held at the Lisbon International Fair on 6 and 7 November 1997. The essential aim of this initiative was to highlight the European Year against Racism, with the participation of the public services, local authorities and non-governmental organizations. Universities and teacher-training colleges also participated, as did representatives of religious communities.

74. Development education programmes carried out by several non-governmental organizations, including Cooperação e Desenvolvimento (OIKOS), the Portuguese Committee for UNICEF and the Amilcar Cabral Documentary and Information Center (CIDAC), help to raise young people's awareness of cultural diversity, interdependence and international cooperation. Also at the initiative of the Ministry of Education, on 10 November 1997, meetings to discuss more effective ways of combating racism were held all over the country. Representatives of human rights associations, notably SOS Racism, were invited to take part in initiatives in schools as part of the "Day against racism".

Paragraph 31 of the 1996 guidelines

75. It is in this context that some official organizations, particularly the Office of the High Commissioner for Immigration and Ethnic Minorities, encourage people to practise cultural activities drawn from their home cultures, which are promoted by schools, leisure centres, immigrant associations and so on, in order to help establish cross-cultural links between all the children covered by the programme. Some festivities of this kind are becoming more popular and are respected by the Portuguese people, and thus help combat racism and xenophobia. In Portugal, certain features of the home cultures of ethnic-minority groups exist side by side with Portuguese culture.

76. The largest communities affirming their cultural identity through their language are those from Cape Verde, Guinea, India and Timor. The children from these communities speak their mother tongue at home and Portuguese at school and with other members of Portuguese society. The communities from the other Portuguese-speaking countries speak in Portuguese.

77. There are two large non-Christian religious communities: Muslims and Hindus. All are free to practise their own religion and teach the children in their community about their religion, beliefs and values. People readily adapt to the circumstances; for instance, children dress for the occasion, wearing Western-style clothes for school and traditional ones when they go to the mosque or temple.

Paragraph 32 of the 1996 guidelines

78. The greatest difficulties experienced in implementing the principle of non-discrimination have to do with poverty. According to a report by the High Commissioner, children from ethnic minorities are often prey to the evils of social exclusion. They live with their families in slum

areas unfit for human habitation. Overcrowding is exacerbated by the serious social problems of unemployment and job insecurity: most of the adults work without a contract (men in the building trade, women as cleaners in apartments or offices), so that many families miss out on the social security scheme and related welfare benefits.

79. The report adds that the shortage of free crèches and leisure centres for these low-income communities endangers the educational and psychological development of their children, who do not receive the support they need, and is a primary factor in their poor academic results and leading them to drop out from school. As a result of poverty and social exclusion, children from ethnic minorities have learning difficulties and are at a disadvantage from the beginning as compared with other children.

80. There are now therefore two programmes under way, one to combat poor academic results and dropout (see chapter VII, section A, paras. 375 ff.) and one to demolish the slums on the outskirts of towns (under the Special Rehousing Programme), which will be discussed in more detail in paragraph 91 ff. It can be stated that there are plans to improve the living conditions of these populations by providing decent housing and social amenities (kindergartens, leisure areas and children's parks).

B. Best interests of the child (art. 3)

Paragraph 33 of the 1996 guidelines

81. As there have been no changes in the Portuguese Constitutional framework, the information provided in the previous report (CRC/C/3/Add.30, paras. 27-34) is still valid. The legislation relating to children reflects the principle of the defence of the best interests of the child, which governs all measures and actions affecting children.

Paragraph 34 of the 1996 guidelines

82. The social policies in the programme of the 13th constitutional government are aimed, directly or indirectly, at guaranteeing the best interests of the child. Two of their main objectives are:

(a) To strengthen solidarity, which is a top priority for the Government. The achievement of this objective involves a radical reform of the social security system, which has been under way since 1997. The Government intends to encourage all social partners to become involved, sharing responsibility for implementing policies, and is also counting on the cooperation of local authorities, within the limitations of the expertise and resources available;

(b) To support the family and promote gender equality, including by promoting the reconciliation of family and working life, which involves a more balanced sharing of responsibilities; it is therefore necessary to promote greater fairness in the areas of employment and social, political and economic power.

83. The following measures, among others, will form the basis for the pursuit of these objectives:

(a) Establishment of a guaranteed minimum income;

(b) Organization of back-to-work programmes for those receiving the guaranteed minimum income, to ensure that they are not always dependent on it;

(c) Promotion of cooperation between State agencies, family associations and other organizations from civil society to combat social exclusion;

(d) Support for the integration of the families of immigrants and those belonging to ethnic minorities;

(e) Development of support schemes for families with dependants or those which take in non-family members on a voluntary basis;

(f) Establishment of a national network providing assistance in the home, through coordination between public services, private institutions, neighbours and companions;

(g) Wider coverage around the country of social services and amenities, in coordination with private welfare institutions;

(h) Implementation of measures to protect children at risk;

(i) Promotion of initiatives to establish the preconditions for a mechanism to coordinate policies and measures at the central, regional and local levels to integrate disabled persons;

(j) Review of the amounts of social security benefits for families and the criteria for allocating them in a way that marries the principles of universality and selectivity;

(k) Review of the conditions for entitlement to earnings-related and supplementary unemployment benefit, by adjusting the rate of coverage to the actual unemployment situation and problems facing families;

(l) Preparation of the Social Security White Paper, which evaluates the social security system and lays out the broad guidelines for reforming it.

84. The radical reform of the juvenile justice system should also be mentioned. The reform, which is aimed at bringing the system closer to the principles and philosophy of the Convention, is analysed in more detail in paragraphs 144 ff.

Paragraph 35 of the 1996 guidelines

85. The best interests of the child are a fundamental right that takes precedence over all others. On 3 October 1997 the Cabinet took a decision (*Diário da República* of 3 November 1997) which recognized that the promotion of the family and the protection of children and young people at risk were a priority for the Government. The decision lists the programmes and bodies set up to protect children and concludes that there is a need for a comprehensive overhaul of the system for protecting children and young people at risk.

86. The decision also says that it is important to combine the various measures taken to reform the legislation, improve coordination between services, reorganize the minors' protection teams, reorganize the adoption services of the regional social security centres, and improve monitoring, support and assessment of the work of the minors' protection boards.

87. For this purpose, the Government decided to:

(a) Develop an inter-ministerial process for legislative reform (in the context of the protection of children and young people at risk and in the context of foster families and homes);

(b) Set up the National Commission for the Protection of Children and Young People at Risk;

(c) Promote the expansion of the minors' protection boards throughout the country, helping them realize their full potential by strengthening them and listing the resources available to them.

88. It is also proposed to improve coordination of the social services' responses by:

(a) Reorganizing and reinvigorating the social security system's juvenile and adoption services;

(b) Setting up a national network of temporary and emergency shelters for children and young people at risk;

(c) Monitoring, supporting and assessing foster families and homes for children and young people;

(d) Coordinating, within the National Commission for the Protection of Children and Young People at Risk, all programmes dealing with specific issues (ill-treatment, adoption, etc.);

(e) Providing appropriate initial and continuing training for everyone dealing with these matters.

89. This was the background to the launching, on 19 April 1997, of the "Adoption 2000" programme, which is based on the recognition of the child's right to a substitute family when the child's biological family has not provided the protection necessary for his or her balanced development. In fact, the concept of the best interests of the child underlies the practice of

adoption as it is understood nowadays. Indeed, it was only after quite a long period (a full century) during which the Portuguese legal system ignored adoption as a source of legal family ties that adoption was recognized as the preferred solution for children deprived of a normal family environment. Throughout Europe, in the first half of the twentieth century, situations where the biological family was unable to cope were resolved by placing the child in an institution. In Portugal, however, this way of thinking persisted for too long, and the idea that, in the absence of a biological family able to ensure the balanced development of the child, the State had a duty to provide a substitute, on the grounds that children have the right to be brought up in a family, is a very recent one.

90. Placement in an institution is now seen as a fall-back, preferably not the definitive, solution. It is the job of the regional centres to care for the children placed in social security institutions, train the carers and check the quality of services provided; it is the job of the Social Security Inspectorate to ensure that the operating standards of the institutions and other support services are observed. These matters will be dealt with in more depth in paragraphs 184 ff.

91. In terms of living conditions, Portugal faces many problems. With a view to realizing the right to housing, an integrated planning and development policy is being pursued to ensure that town planners provide for transport and amenities (kindergartens, leisure areas, community centres and children's parks). Preference is given to projects that incorporate social and environmental improvements, and thus take account of the best interests of the child. Consequently, the central administrative bodies (the Institute of Management and Alienation of State Residential Property (IGAPHE) and the National Housing Institute) have already signed adhesion contracts and contracts providing finance on favourable terms with the municipal authorities submitting rehousing programmes.

92. It should be pointed out that in Portugal, since the 1980s, economic developments, which have been marked by a vast array of structural reforms, have also been accompanied by problems in controlling the haphazard expansion of towns, and sometimes by a sharp deterioration in living conditions, characterized by the spread of slum areas and worsening social problems.

93. The doubling, between 1985 and 1995, in the number of foreigners living in Portugal left these groups of people especially vulnerable, since they take jobs in the sectors employing unskilled workers. These groups, who live on the outskirts of the big cities, are among the main beneficiaries of the special rehousing programmes. These programmes were set up to solve the problem of makeshift housing, and especially to demolish the slums in the metropolitan areas of Lisbon and Porto. By the end of 1995 the central authorities had signed contracts concerning some 50,000 dwellings.

94. As part of the National Anti-Poverty Programme, partnership networks have been set up to integrate the work of the public and private sectors, and specific programmes have also been started in this area:

(a) The INTEGRAR programme is designed to promote the economic and social integration of the most disadvantaged population groups. It includes measures to support social development and the construction and adaptation of social amenities;

(b) The URBAN programme is a community initiative designed to renovate urban areas suffering from deteriorating housing, lack of basic infrastructure and particularly serious problems of poverty, unemployment, drug abuse and marginality;

(c) Urban Renewal Operational Action (IORU), part of the second community support plan, contributes to the urban renewal of slum areas (which will be developed under the special rehousing programme) and of rundown districts in the Lisbon and Porto metropolitan areas. IORU co-finances the acquisition and construction of infrastructure and of the social, sports and leisure facilities needed for the appropriate integration of the families to be rehoused or those already rehoused in public housing projects;

(d) The overall investment envisaged for these measures is about 40,763 million escudos, with community co-financing accounting for 26,130 million escudos. The target areas for urban renewal cover 1,500 hectares and some 42,000 families.

95. Immigration, asylum-seeking and refugee status are matters for the Aliens and Frontiers Department. We have already drawn attention to the large increase in immigration in the 1980s, with the number of foreigners legally resident in Portugal rising from 79,594 in 1985 to 157,073 in 1994. The Aliens and Frontiers Department handles the procedure for granting refugee status to children, in accordance with article 22 of the Convention, which sets forth their right to receive appropriate protection and humanitarian assistance in cases of asylum.

96. Act No. 70/93, which regulates this legal institution, provides indirectly (in article 5) that minors themselves may lodge requests for asylum. The order by the Deputy-Director of the SEF clarifies this provision, explaining that foreign citizens aged between 16 and 18 may themselves lodge requests for asylum, which will if appropriate follow the normal procedure. When the foreign citizen lodging a request for asylum is under 16 and has been abandoned or neglected, he or she will be brought before the competent children's procurator, who will take action to appoint a guardian, who may give the go-ahead to pursue the request. In the case of younger children who have been abandoned or neglected, the juvenile court shall decide on the implementation of the protection measures provided for in the minors' protection regime.

Table 7

Requests for asylum concerning minors

	1995	1996	1997
Lodged by minors	11	6	12
Lodged by legal representatives	120	49	27
Total	131	55	39

Source: Aliens and Frontiers Department (1997).

Paragraph 36 of the 1996 guidelines

97. Respect for the best interests of the child governs the actions taken by the ministries concerned with children's issues. At the moment, there is a broad movement to reform legislation to increase respect for children's well-being. The Fourth Constitutional Amendment, adopted by the Constitutional Act of 20 September 1997, stipulates that the State is responsible for ensuring that children without a normal family environment receive special protection, thus broadening the scope of the provision, which previously only afforded special protection to orphans and abandoned children. Moreover, both in the regulations on juvenile justice and in social security legislation (on foster families and homes), amendments designed to improve procedures with a view to ensuring the child's well-being are envisaged.

Paragraph 37 of the 1996 guidelines

98. The Ministry of Solidarity and Social Security is constantly striving to ensure that reception centres, homes and institutions for children and young people function properly. To this end, while prevention has been recognized as being of fundamental importance and strict criteria have been applied in the selection of foster mothers and foster families and in regulating homes, efforts have also been made to reinvigorate the Social Security Inspectorate. This has been done by appointing two judges to the management authority and by increasing its means and resources.

99. In 1996 and 1997, services were systematically checked and a large number of inspections were carried out in institutions for children and young people, such as kindergartens, leisure facilities, homes for children and young people, crèches, facilities for disabled children and youngsters, family crèches, foster families and emergency shelters (140 inspections were carried out between 1994 and 1997). The conclusions of the reports on these inspections were decisive for certain government programmes. For instance, Adoption 2000 was one of the programmes set up on the basis of the findings of the inspections carried out during the past two years.

100. Indeed, the Government, after seeing the large number of children kept in institutions who had no contact at all with their biological families and the small number of adoptions approved, believed it was necessary to review and speed up the legal procedures for adoption. For this purpose, a programme coordination group was set up, not only to broaden the criteria for adoption through legislative measures but also to encourage the establishment in regional social security centres of multidisciplinary teams with expertise in either the selection of prospective adoptive parents or in the prompt placement of children, whenever possible, as an alternative to putting them into an institution.

Paragraph 38 of the 1996 guidelines

101. The main problems in this area have been identified in studies showing that there are around 13,500 children and young people deprived of a normal family environment who are in the care of social security (in foster families and homes); of these, 4,000 are in a foster family or extended family and 9,068 are in homes (of which there are 220), with a further 900 in

institutions which come under the Ministry of Justice. This situation shows the persistence of the practice of putting children in institutions, which is clearly not the ideal solution for many of them.

102. When the Government decided to go ahead with Adoption 2000, its aim was to tackle the problem on four interrelated fronts: (a) reform of adoption legislation; (b) reorganization of the social security adoption services; (c) coordination of public- and private-sector services; and (d) establishment of the coordination group for Adoption 2000.

Paragraph 39 of the 1996 guidelines

103. With regard to staff training, the concept of the best interests of the child is studied in greatest depth in the Centre for Judicial Studies (college of magistrates) and in the continuous training courses in the social security services, because of the specific nature of their duties. However, it should be stressed that the subject is also broached in the training courses in the Ministries of Education and Health and that in 1996 and 1997 topics such as child development, children's rights and children and violence were dealt with in some depth.

Table 8

Courses run by the Services and Staff Training Department

Course	1995				1996				1997			
	(a)	(b)	(c)	(d)	(a)	(b)	(c)	(d)	(a)	(b)	(c)	(d)
Children's and young people's issues	30	25	12	13								
Adolescence: a development phase	30	23	8	15								
Seminar: Children and young people at risk	18	25	13	12					18	30	20	10
Seminar: Children's and young people's spare time	18	27	7	20								
Seminar: Children and young people with disabilities					18	24	8	16	18	27	13	14
Institutional project									30	25		
School guidelines for pre-school education									30	25		
Totals	96	100	40	60	18	24	8	16	116	107	33	24

Source: Services and Staff Training Department.

(a) Duration in hours.
(b) Number of participants.
(c) Managerial staff.
(d) Front-desk staff.

C. Right to life, survival and development (art. 6)

Paragraph 40 of the 1996 guidelines

104. The right to life is foremost among the fundamental rights enshrined in the Constitution. The overview of the situation given in the initial report (CRC/C/3/Add.30, paras. 35-37) is still valid.

105. The Ministry of Health, through the Department of Health, is taking various steps to give effect to the right to life. At the instigation of the National Commission on Women's and Children's Health, a working group on the prevention of accidents was set up in April 1997 to concentrate on making people aware of the need to follow the rules on safety. In July 1997, this working group carried out an information campaign under the slogan "You'll see it's better without accidents", which involves a play on words in Portuguese ("Sem accidentes verão que e melhor": *verão* is the future tense of the verb "to see" and also the word for "summer"). The aim was to establish a link between prevention and safety and the season in which most accidents involving children and young people take place. Subjects as varied as precautions against sunburn (Portugal is a country where people traditionally go to the beach in summer), prevention of drowning, safety in children's parks and play areas and road accidents have been dealt with in some detail, the Ministry of Health having supplied statistics to highlight the need to adopt safety-conscious behaviour.

106. Road accidents have been dealt with in a special campaign targeting, on the one hand, adults taking children on trips and, on the other, teenage road-users themselves, with particular emphasis on the need for cyclists to wear helmets.

107. Another priority for the Ministry of Health is children's health, insofar as it is a consequence of respect for the right to life, survival and development, which are recognized as fundamental rights of the child. The National Commission on Women's and Children's Health, which assists the Minister of Health by proposing operational programmes and encouraging interdisciplinary coordination between the health services and non-governmental organizations, is seeking, by studying the underlying causes of infantile mortality, to define the action to be taken and is collecting data on the subject with a view to improving the indicators. Despite the great progress made in reducing infantile mortality, there is still a need to pursue efforts to reduce the number of deaths further. It is true that Portugal still has the worst indicators in the European Union, and improving on them is undoubtedly a precondition for the success of health-care programmes aimed at development.

108. As far as children's and adolescents' health is concerned, the Commission would like the age-limit for paediatric care to be set at 18 and the competence of community paediatricians to provide health care to be recognized. It also hopes a national programme will be developed for the prevention of accidents and the promotion of child and youth safety, for further training of experts on adolescent health, and for closer links between child and paediatric health care and child and youth mental health care.

109. Along the same lines, the Department of Road Traffic has developed a series of activities concerning safety, particularly road safety, which are in keeping with the objective of respect for the right to life. By joint order of the Ministry of the Interior and the Ministry of Education, dated 23 January 1997, the Commission on Road-Safety Education was established to create a system for the introduction of road-safety lessons in schools. This initiative is aimed at young people as pedestrians and road-users.

110. Campaigns to raise awareness about these topics have been run by the Association for the Promotion of Child Safety (APSI) and by the Portuguese Road Safety Organization (PRP). During the 1994/95 and subsequent school years, APSI organized a project called "Safe schools" for pupils in the early years of primary school, to improve safety in schools. The project, which was supported by the Health Promotion and Education Programme of the Ministry of Education, was designed to make teachers and pupils more aware of safety issues. Booklets containing useful information on safety standards were sent to around 10,000 schools. Five schools whose projects were selected will receive grants to carry them out.

111. The following school year, 1996/97, the Ministry of the Interior and the Ministry of Education continued the theme of safety in the schools - curiously, with the same title - "Safe Schools Programme" - with the goal of achieving a significant increase in safety in the schools. To that end, 72 cars marked with the "Safe Schools" slogan were assigned to the Programme. Human resources, i.e. the members of the special units of the security forces were also increased significantly. This programme comprises a series of activities, including:

(a) An information campaign on children's and young people's safety while travelling from home to school;

(b) Distribution of personal equipment for children and young people aimed at increasing their visibility and safety in the streets;

(c) Awareness-raising campaign on safety in the schools;

(d) Systematic programme of visits by the security forces to the schools and by pupils to the security force units.

112. With regard to respect for the right to life, as a result of concerns repeatedly expressed by APSI, legislation was recently adopted on safety standards in children's playgrounds and other recreational areas. APSI has also cooperated with other campaigns on protection of the right to life, such as consistent and determined action to make the wearing of bicycle helmets compulsory and, in 1997, the holding of a press conference broadcast simultaneously in several European countries on children's use of seatbelts and other devices in the back seats of automobiles.

113. With regard to maternal health, mention should be made of the guidelines set by the National Commission on Women's and Children's Health, whose basic goals are to expand prenatal care so as to be able to provide prenatal diagnosis to all pregnant women over 35 years of age, and to reduce the number of teenage pregnancies, especially among girls under 16 years of age. This topic will be developed further in paragraphs 271 ff. below.

Paragraph 41 of the 1996 guidelines

114. As the registration of children's deaths is obligatory, a document must be drawn up specifying the cause of death (death certificate). Studies containing information on causes of death and numbers of deaths, disaggregated by region, are available in the files of the Department of Health.

115. As regards infant mortality - which, in addition to being a health indicator, is a socio-economic parameter - the past five years have seen a continuation of a trend observed earlier in causes of death: the leading causes are perinatal disorders (slightly more than half of cases), congenital anomalies (approximately one third) and accidents predominate; infectious diseases (pneumonia, gastroenteritis, meningitis, septicaemia) and nutritional diseases (malnutrition, vitamin deficiency) have practically disappeared as causes of death among Portuguese children. These changes are a reflection of improvements in living conditions - housing, nutrition, hygiene, education - which have mitigated the effects of the environmental conditions that were formerly responsible for most children's deaths. The infant mortality rate in Portugal is no longer as important as previously as a political and socio-economic parameter, especially if it is not doubled in terms of both social and economic parameters. For example, when disaggregated according to father's profession and mother's education level the figures still indicate obvious inequalities.

116. With regard to the other age groups, the mortality rate of children 1-4 and 5-9 years of age is still higher than in other western countries, due to an exceptionally high proportion of traumas and accidental injuries, which account for more than half of deaths. In second place are congenital anomalies and in third place, tumours. Infectious diseases have practically disappeared as causes of death.

117. The mortality rate among adolescents (10-14 and 15-19 years of age) has stabilized, with accidents, traumas and injuries accounting for nearly two-thirds of deaths, followed by other violent causes (including suicide) and tumours. Nevertheless, as the number of adolescent deaths attributed to "unknown" or "uncertain" causes (it is not known whether violence or accident was involved) is still high (nearly one-third of the total), it is not possible to obtain a complete mortality profile with regard to these adolescent age groups.

118. Due to distortions and a few errors, especially with regard to the 0-1 year and adolescent age groups, the health authorities have considered conducting a case-by-case study, with a view to obtaining better clarification of some deaths and the extent of certain situations, in particular the sudden infant death syndrome, ill-treatment and suicide. For epidemiological, bureaucratic, social and cultural reasons, many deaths are classified under the "ill-defined situations" rubric or as cases where "it is not known whether an accident or some other form of violence was involved".

119. Table 9 below provides the infant mortality rate for 1996; in all there were 747 deaths among children under 1 year of age countrywide. The figure for 1992 was 1052.

Table 9

Infant mortality rate in 1996

District	Rate
Aveiro	6.0
Beja	5.4
Braga	8.4
Bragança	11.9
Castelo Branco	5.9
Coimbra	5.5
Evora	5.4
Faro	5.4
Guarda	7.5
Leiria	5.4
Lisbon	6.4
Portalegre	1.9
Porto	7.7
Santarém	3.2
Setúbal	6.0
Viana do Castelo	5.9
Vila Real	7.9
Viseu	6.1
North	7.9
Centre	6.0
Lisbon and Tagus Valley	5.9
Alentejo	4.4
Algarve	5.4
Azores Autonomous Region	7.9
Madiera Autonomous Region	11.9
Portugal	6.8

Source: Ministry of Health.

120. The two tables below concern children's suicides, disaggregated by sex and age.

Table 10

Suicide by children

(1996 and first half of 1997)

1996	Boys	Girls	Total
January	4	-	4
February	1	4	5
March	3	-	3
April	1	3	4
May	2	2	4
June	-	-	-
July	3	1	4
August	-	-	-
September	1	-	1
October	2	-	2
November	2	-	2
December	-	-	-
Total	19	10	29
1997			
January	-	-	-
February	4	-	4
March	4	3	7
April	2	1	3
May	2	1	3
June	-	1	1
Total	12	6	18

Source: Studies and Planning Office, Ministry of Justice; Department of Health.

Table 11

Year	10-14	15-19	Total	Percentage of total deaths
1992	4	24	28	2.7%
1993	3	15	18	1.9%
1994	4	21	25	2.8%
1995	2	23	25	3.0%
1996	1	13	14	1.7%

Source: National Statistical Institute (INE).

There were inconsistencies between the figures from the different sources. For example, in 1996 INE recorded 14 cases of suicides by children in the 10-19 age group, whereas according to Ministry of Justice statistics there had been 29 cases. This gap is due to what was stated earlier in connection with the civil register and death certificates and, where suicide is concerned, to cultural, religious and other factors which result in suicide being classified under the headings of "accident" or "cause unknown".

D. Respect for the views of the child (art. 12)

Paragraph 42 of the 1996 guidelines

121. Paragraphs 38 to 41 of the initial report contain information about the relevant legal framework as a whole. Within the family, children's views on family matters of importance should be taken into account, depending on their maturity, by parents, who should allow them gradually increasing independence in running their lives.

122. However, it is generally accepted today that legal instruments in this area must clearly state the child's right freely to express his opinion on matters affecting him, in particular when decisions concerning his future are involved. Such questions will therefore be addressed in the framework of the reform, that the Government has decided to undertake. As the authorities have been aware for some time that administrative decisions must be taken on the basis of fundamental principles, respect for the views of the child has been enshrined in specific legislation and in the statutory instruments governing the various alternative care measures. Which are the following:

(a) Foster care: Article 5 of decree law No. 190/92 of 3 September 1992 provides that a child over 12, (or less if his mental development permits) must be given a hearing. The hearing shall cover the various stages of foster care from commencement through stay in the foster home, transfers if any and return to the natural family;

(b) Adoption: From the age of 14 onwards, (Civil Code, art. 1981), young persons cannot be adopted without their consent. In fact, efforts are made to ensure that children even younger are given a hearing, if their mental development permits;

(c) Children's homes: decree law No. 2/86 of 2 January 1986 does not explicitly provide for the child to be heard. Mention should be made, however, of a recent social security service regulation (1997) which provides that, on admission to a home, a child over 12 years (or less than 12 if his mental development permits) shall be given a hearing; a hearing may also take place at other times, for example during his stay in the home, on transfer or on return to his natural family.

Given the legally-recognized right of children to be heard, technical support and training activities for staff working with children emphasize the importance of seeking the child's views. The relevant legal instruments, however, require amendment, as stated in Council of Ministers decision No. 193/97 of 3 November 1997.

Paragraph 43 of the 1996 guidelines

123. Portuguese legislation sets forth the idea that young people must be granted the right to be heard in all important matters affecting them. However, difficulties arise in implementing this idea, relating especially to cultural conceptions of the value of children's opinions and their proper place in the hierarchy of family members. Nevertheless, striking changes are taking place both within the family and at school: it is now considered important to hear the views of children and young people as there is an awareness that the authoritarian approach to relations in the family and at school fosters neither responsibility nor independence. Young people themselves are aware of their rights, and when they consider themselves to have been the victims of misuse of parental authority they attempt to have the conflict resolved by the competent bodies.

124. Where school life is concerned, the provisions of decree laws Nos. 769-A/76 of 23 October 1976 and 172/91 of 10 May 1991 are increasingly applied with regard to student participation in educational bodies and structures. The decrees, which relate to the democratic management of primary and secondary school establishments, provide for student representation on school councils and class councils, although restricted to pupils in the third cycle of secondary education: it should be noted, however, that representation has now been extended to all students.

125. As for the administration of juvenile justice, it should be noted that the movement which has arisen around the need for a revision of the Act on the Minors' Protection Regime has decided, by consensus, to take as its central theme the right of a young person to be heard in such a way as to be able to influence a decision. This theme will be discussed further in chapter VIII, section B (1), "Administration of juvenile justice (art. 40)" (see paras. 444 ff.).

Paragraph 44 of the 1996 guidelines

126. As stated earlier, the Government intends to expand and develop the right of the child to be heard and even, in certain cases, to make such hearings obligatory. The Commission for the Review of Sentences and Measures has announced this intention publicly.

Paragraph 45 of the 1996 guidelines

127. It should again be stressed that the Secretariat of State for Youth is eager to encourage the participation of young people in decision-making, to the point of adopting a philosophy encouraging young people to monitor Government action through the Youth Advisory Council and to take part in the management of the Youth Centres (see para. 20 above).

Paragraph 46 of the 1996 guidelines

128. Generally speaking, it is not yet possible to state that the Convention on the Rights of the Child is included in all the curricula of the teacher training colleges. However, since the school year 1994/95, the Convention has been included in the curriculum of the bachelor's degree in

education dispensed by the Institute for Studies on Children. The Convention is also obligatory reading in the training courses for judges dispensed by the Centre for Judicial Studies (CEJ), the higher-level training college for judges, and is taught in lessons or lectures in the context of children's law and family law. Similarly, the Centre provides ongoing training for serving judges, in which the Convention is studied as part of the short-term courses in both treaty law and children's and family law.

129. It should be noted, however, that there are no specific programmes for judges assigned to family or juvenile courts, as they are not required to specialize in order to serve on these courts. Several experts in various child-related areas and several non-governmental organizations, including the Portuguese Association of Women Jurists, advocate specialization not only by the judges assigned to these courts but by all staff working in them, with a view to providing better quality of service, in the best interests of the child.

130. Although training activities are not always obligatory, it should be noted that the Convention is a required subject in the curricula of the School of Advanced Police Studies and the other schools of the Public Security Police and the Republican Guard.

131. It should be noted that, in recent years, the interest shown by universities in child-related areas has led not only to seminars and studies, but also, more significantly, to the holding of post-graduate courses in these subjects. The first university institute in Portugal was established in 1996 at the University of Minho, with the goal of offering children's studies from a multidisciplinary standpoint. This new institution provides training for nursery school teachers and teachers in the first cycle; its activities are geared to extending provision of training to cover the new problems confronting children. A research project on children in Portugal involves a study on the situation of children in Portugal by the year 2000. A centre for documentation and information on children is being set up and should be available for consultation by mid-1998. A post-graduate course on children's welfare began in November 1997 at the Coimbra faculty of law.

132. The Higher Institute of Applied Psychology also offers a master's degree in forensic psychology, which contains a children's law module that includes the Convention. The Convention is also increasingly studied in nursing and medical schools, as part of classroom studies in paediatrics; mention should be made of the master's degree in school health at the Lisbon faculty of medicine, which comprises a module specifically on the rights of the child from the Convention's perspective.

133. Teacher training programmes include the project mentioned in paragraph 46, which lasts 30 hours and the symposium on the Convention, organized by the students' association in the Higher Institute for Social Services, to which it invited two members of the National Commission on the Rights of the Child. In order to raise public awareness in general, the Child Support Institute conducts information and training activities on behalf of children throughout the country, through the media or by participating in seminars and symposia organized for the purpose.

Paragraph 47 of the 1996 guidelines

134. Improvements have been noted in this area. Children's opinions are being given increasing importance, and an effort is made to ascertain their feelings, reasoning and desires, either before a judicial decision is taken or with regard to policy decisions. Knowledge of children's views has had a positive influence to date. One example of this was the Children's Parliament, which met on 1 July 1997 in the Assembly of the Republic; an initiative in which children participated and the symbolic significance of which aroused curiosity and sympathy on the part of public opinion and the media.

IV. CIVIL RIGHTS AND FREEDOMS

Paragraphs 48-61 of the 1996 guidelines

135. The civil rights and freedoms set forth in the Convention are guaranteed in Portuguese law. The preceding report contains detailed information on the relevant legislation; the reader is referred to its paragraphs 42 to 97, relating to articles 7, 8, 13, 17 and 37, paragraph (a).

136. Some practical difficulties still arise from time to time, however, with regard to registration of orphaned or abandoned children, which has given rise to the recommendation by the Ombudsman mentioned in paragraph 12 of the present report. The case in question concerns an African child who, since 24 December 1991, has been living in a welfare institution and awaiting a name and nationality, as required by article 7 of the Convention. This important recommendation has even been confirmed in a decision by the administration authorities.

137. In all situations where an administrative measure of alternative care has been taken, the right of the child to preserve his or her identity, nationality, name and family relations is guaranteed by law, unless the situation dictates otherwise. Where a child is subject to a measure involving provisional placement in alternative family care, the encouragement of relations between the child and his or her family is one of the aims pursued with a view to the eventual return of the child to the family.

138. Mention should also be made of a measure recently taken by the Ministry of Science and Technology aimed at strengthening the right of access to adequate information. In view of young people's particular interest in information technology, a schools Internet programme has been conducted since March 1997. The Ministry of Science and Technology, which has been meeting the entire cost of the programme, announced in September 1996 that all public and private schools in the country, from the fifth through the twelfth grades, would be connected to the Internet. A few schools in the first cycle and a few private social welfare institutions have also been beneficiaries of the programme, in view of their activities in the area of information technology.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

Paragraph 62 of the 1996 guidelines

139. The information provided in the initial report on the legal framework remains valid (CRC/C.3/Add.30, paras. 98-100). With regard to family structures within society, the 1996 report of the European Observatory on National Family Policies notes that Portugal can be described as a country with a strong ideological commitment to the family. In this context, the family has always been proclaimed and broadly considered to be the institution providing fundamental care and solving individual problems, thus offsetting imprecisions or weaknesses in social policies.

140. The report emphasizes the constant nature in recent years of concern about the true (economic and social) situation of families and states that real efforts have been made to guarantee that they have a minimum standard of living. It is believed that, by providing systematic support to low-income families, it will be possible to reduce the relatively high rate of poverty (in particular by providing a minimum guaranteed income).

141. Another report published in December 1996 to mark the International Year for the Eradication of Poverty revealed that 18.5 per cent of Portuguese families could be considered poor; of those, 4.8 per cent were very poor and had difficulties chiefly with housing and the regular payment of water and electricity bills, but also with the payment of food, clothing and medical expenses.

Paragraph 63 of the 1996 guidelines

142. After abolishing the organizational structure for family matters, the Department of Family Affairs, the Office of the High Commissioner for the Promotion of Equality and the Family took on some of the Directorate-General's duties. Priority was given to the establishment of a national family council, the better to evaluate existing measures and propose any changes needed.

143. The National Family Council replaced the Advisory Council on Family Affairs and the Interministerial Commission for the Family. It defines and implements an overall family policy, but its role is above all to advise the Office of the High Commissioner in the following areas:

(a) Promotion of the creation of support infrastructure for families;

(b) Adoption of measures aimed at overcoming discrimination towards single-parent families;

(c) Promotion of cooperation with families in the rearing of children (particularly the families with handicapped children);

(d) Promotion of a tax policy favourable to low-income families.

The National Family Council is made up of ministerial representatives, recognized specialists on family matters, representatives of non-governmental organizations and representatives of local communities. The non-governmental organizations active in this field are encouraged. The Office of the High Commissioner intends to submit to the Government a proposal for a global, coherent and integrated plan on family policies in 1998.

Paragraph 64 of the 1996 guidelines

144. Various measures have been adopted with a view to providing information on the Convention. The most significant, because they reach a huge target group, are undoubtedly those conveyed by the schools, either in writing or in presentations after school hours. Some of the presentations discuss only topics relating to the rights of the child and his development, while others include play activities to attract more people, both children and adults. Some schools organize presentations of this kind; they are generally well accepted by the parents and the children and thus help to spread knowledge and harmonize humanist thinking. On the occasion of International Children's Day, the Portuguese Committee for UNICEF published a brochure intended especially for parents on the rights of the child and the Convention.

B. Parental responsibilities (art. 18, paras. 1-2)

Paragraph 65 of the 1996 guidelines

145. The information provided in the initial report remains valid with regard to the responsibilities of parents during marriage (para. 101).

146. There has, however, been a major change with regard to parents who have separated. Law No. 84/95, of 31 August 1995, gives the parents, in the section on the effects of the divorce or the separation, the possibility to choose a system of joint custody, enabling them to opt for a system that does not prevent one of them from having parental responsibility. In fact, Parliament unanimously approved an amendment enabling the parents to opt for joint custody (in Portuguese, *guarda conjunta*), bringing Portugal in line with the majority of European countries while at the same time enhancing respect for article 18, paragraph 1, of the Convention. The law originated in a proposal made by two non-governmental organizations (the Portuguese Association of Women Jurists and the Father, Mother, Child Centre) which, to mark the International Year of the Family, sent parliamentary groups an appeal promoting the adoption of several amendments to certain precepts of the Civil Code that had been demanded in particular by associations of parents and which seemed to be the object of a broad consensus.

Paragraph 66 of the 1996 guidelines

147. Adopted as a support measure for parents and legal representatives in the discharge of their responsibilities, Law No. 17/95 of 9 June 1995, regarding the protection of motherhood and fatherhood, is a step forward from the ideological point of view, given not only that it recognizes fatherhood and motherhood as functions within society, but also that it attempts to find mechanisms for the implementation of that principle. The Law, which amended law No. 4/84 of 5 April providing for 90 days of maternity leave, incorporated into internal legislation Community Directive 92/85/CEE of 19 October, bringing maternity leave up to 98 days.

148. The opportunity was not taken to grant prospective adoptive parents the right to take leave when adopting a child over the age of three. It is nevertheless hoped that this will be the case soon. It is indeed puzzling that, at a time when the intention is to encourage the adoption of children over three years old, the prospective parent is obliged to take leave without pay in order to be with the child he or she has decided to adopt as a son or daughter when the child is 3 years old.

149. Decree law No. 333/95 of 23 December 1995 contains the implementing regulations for Law No. 17/95 of 9 June 1995 and deals with the allocation of social services to pregnant women, new and nursing mothers, people who are unable to work or unavailable for work because of motherhood, fatherhood or adoption and people who have handicapped or sick children or under-age descendants whom they are obliged to assist. The decree law also deals with working conditions considered to be hazardous for pregnant women and new or nursing mothers (physical effort, exposure to certain agents, night work, particularly heavy work). Once it has been determined that the situation is hazardous, the employee can receive a 65 per cent increase in basic pay and, in circumstances considered to be too serious, she may be excused from work.

150. With regard to the measures adopted for the express benefit of children belonging to the most under-privileged groups, including those living in extreme poverty, the reader is referred to the national programmes mentioned above: the national minimum income, which aims gradually to make the family independent; the National Anti-Poverty Programme, which runs occupational training and literacy projects for various vulnerable groups, in particular unemployed women; and the "What it means to be a child" programme, which aims to develop special projects for deprived children, those in hazardous social and family situations and handicapped children, with a view to their integration into family and society.

Paragraph 67 of the 1996 guidelines

151. In the framework of the "What it means to be a child" programme, projects concerning almost 14,000 children have been approved throughout the country (see table 12 below).

Table 12

Region	Number of candidates	Target group		What it means to be a child funding, 1997
		children	families	
North	30	5 371	3 549	303 644 768
Centre	17	1 193	982	165 022 555
Lisbon and the Tagus river valley	15	1 230	1 036	166 823 519
Alentejo	4	644	422	61 882 002
Algarve	2	38	30	10 107 816
Madeira Autonomous Region	4	80	49	43 083 938
Azores Autonomous Region	3	651	188	38 004 044
TOTAL	75	9 207	6 256	788 568 642

Source: Department of Social Action (DGAS).

C. Separation from parents (art. 9)

Paragraph 68 of the 1996 guidelines

152. The references made in the initial report (CRC/C/3/Add.30, para. 106) to the Constitution (art. 36, para. 6) remain valid: children may not be separated from their parents unless the latter fail to perform their fundamental duties towards the former, and then only by judicial decision.

153. The social policy measures are aimed at guaranteeing the right of the child to know his or her parents and to be raised by them. Only in cases in which the situation is not viable are steps taken to find a replacement for the natural family, to which the child should, where possible, be returned. The family replacements, or temporary foster families, guarantee that right, which is enshrined in the legislation on foster families and in the regulations on homes and temporary reception centres.

154. There are cases in which, if the parents have consented to non-judicial action, assessment of the case and the decision to transfer the child to an alternative home fall to the minors' protection boards. This is a recent endeavour to give priority, whenever possible, to administrative protection of the child, in an attempt to attract the attention of the entire community by supplementing the knowledge of the institutions through the personal interest demonstrated by the members of the community.

155. The public authorities are aware that a distinction must be made between families who are unable to rear their children for reasons of extreme poverty and those that are seriously dysfunctional and can gravely harm the child's development. For this reason, the Government has drawn up several programmes aimed at clearly identifying the causes of the family's social and educational incapacity.

156. The most important programme to promote the development of family skills, based on the idea that whenever viable the family is the best solution for the child, is the "What it means to be a child" programme mentioned in paragraph 17 (a) above and paragraphs 365 ff. below. Generally speaking, the minors' protection boards assess and decide in cases in which the parents are aware of their inability or lack of availability to assume their educational responsibilities, a state of affairs they almost always consider to be temporary. It is those cases which determine the placement of children in foster families or with a member of the extended family concerned.

157. The cases in which the parents do not agree to the intervention of the minors' protection boards are usually more serious, and sometimes prolonged ill-treatment, sexual abuse or abandonment has damaged the relationship between the child and the parents beyond repair from the psychological point of view. In such cases the court must take action to limit the exercise of parental authority or even declare it forfeit, and decide to place the child with a third person, or an appropriate institution, that will nevertheless have the duty to keep the court regularly informed. It is this duty to provide regular information, provided for in article 22 of the minors' protection regime, which, if duly fulfilled, makes it possible periodically to assess the child's situation.

158. Indeed, the law provides that a child removed from his or her parents by a court decision must be followed by the court which decided on the separation. Through reports submitted at various intervals by the court's assistance services (monthly if the child's future is hard to diagnose, or annually in thoroughly studied and diagnosed cases), an attempt is made to obtain sufficient data to outline the child's life project.

Paragraph 69 of the 1996 guidelines

159. There is growing awareness that no decision in respect of a child can be fair if it does not take account of the child's view; court decisions often refer to the right of the child to respect for his or her deep psychological bonds. This is why, when a child should not or cannot be heard by the judge, for example because of age, his or her view should be heard by a psychologist.

..agraph 70 of the 1996 guidelines

160. The reader is referred to paragraphs 38 to 41 of the initial report (CRC/C/3/Add.30) (respect for the opinions of the child) which remain valid.

Paragraph 71 of the 1996 guidelines

161. When a court decision is taken in respect of a child, the parents are notified of that decision and have the right to appeal to a higher court. If the child has been removed from the family because of ill-treatment, the parents may, in exceptional circumstances and only in order to safeguard the physical integrity of the child, not be told where the child has been placed. This is also the case for adoption, where the identity of the adoptive parent is communicated to the natural parents only if the former agrees.

Paragraph 72 of the 1996 guidelines

162. In Portugal only the situations arising from detention or imprisonment need to be discussed, given that exile does not exist and that the accessory penalty of expulsion applies only to foreigners. One unregulated situation that is worth studying is that relating to the measures regarding the right of parents in custody who are divorced or separated to maintain contact with their children. Several male and female detainees have written to the juvenile courts asking that measures be taken allowing them to see their children or to have news of them in cases where the other parent does not bring the child to the penal establishment. Staff from the Social Rehabilitation Institute sometimes take ad hoc measures allowing detainees to have access to their children if they so request.

163. A mechanism must nevertheless be established by which to fulfil not only the right to information but also to the maintenance of regular contact with the child, unless such contact is contrary to the child's development and well-being.

D. Family reunification (art. 10)

Paragraphs 73-77 of the 1996 guidelines

164. In Portugal the Government has taken measures which have had radical effects on the issues dealt with in article 10 of the Convention. Indeed, the creation of the Office of the High Commissioner for Immigration and Ethnic Minorities, and the establishment of a standing interministerial commission for the reception and social integration of the Timorese community and of an aliens special regularization commission are evidence that tangible measures are essential to ensure tolerance and non-discrimination.

165. Law No. 17/96 of 24 May 1996 set out a procedure for the special regularization of clandestine immigrants. That procedure, which was coordinated by a national commission, lasted from 11 June to 11 December 1996 and enabled aliens to enjoy social and economic rights, particularly in connection with employment, social security benefits and access to housing, within the framework of the special rehousing programmes previously considered. Of the 35,082 aliens who applied for the procedure, 9,255 were from Angola, 6,782 from Cape Verde, 5,380 from Guinea-Bissau, 2,330 from Brazil, 1,549 from Sao Tome and Principe and 416 from Mozambique, making a total of 25,730 from Portuguese-speaking countries.* Some 4,000 were not admitted; 3,772 of them have appealed.

E. Illicit transfer and non-return (art. 11)

Paragraph 78 of the 1996 guidelines

166. Portugal is a State party to the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980. The information provided in paragraph 117 of the initial report (CRC/C/3/Add.30) remains valid.

F. Recovery of maintenance for the child (art. 27, para. 4)

Paragraph 79 of the 1996 guidelines

167. No legislative amendments have been adopted since the initial report (para. 111). That said, a study carried out by the Office of the High Commissioner for the Promotion of Equality and the Family served as the basis for a proposal to establish an assistance fund for deprived children whose parents did not help pay for their food, the State naturally having the right of recourse once the debtor possesses distrainable assets.

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* See editor's note on p. 4.

G. Children deprived of their family environment (art. 20)

Paragraph 80 of the 1996 guidelines

168. Article 69 of the Constitution guarantees the protection of children. During the fourth constitutional review, that article was substantially modified, providing not only that children deprived of a normal family environment are entitled to special protection but also that the State has a duty to ensure that protection (the previous version of the Constitution only stipulated the right of orphans and abandoned children to special protection). This very recent amendment (Constitutional Decree published in the *Diário da República* of 20 September 1997) will undoubtedly have a highly significant impact on legislation regarding children at risk or in danger and will constitute the reform referred to in Council of Ministers resolution 193/97, published in the *Diário da República* of 3 November 1997.

169. In Portugal it was not until the 1980s that discussion started to focus on the special attention that should be granted to children deprived of a normal family environment, in particular children who are the victims of ill-treatment, sexual abuse or negligence. The Centre for Judicial Studies (national school for magistrates) and the Child Support Institute played a significant role in discussions on the rights of children who are ill-treated by their families and on the definition of the higher interests of the child.

170. In the past, parental authority was routinely considered to be almost absolute; grave outrages to physical integrity went unpunished because they were considered to fall within the parents' absolute right to punish their children as they pleased, within the private sphere of the family. As citizens became increasingly aware of their rights, in particular of human rights, the view spread that the State had a legitimate right, through the courts, to intervene in the family sphere in order to guarantee the health (understood to mean both physical and psychological health), security and well-being of a child when it had been proven that the child was in danger and that his or her rights had indeed been violated.

171. Under the 1982 Penal Code, ill-treatment is a crime. The media have broadcast several programmes for the general public on this offence; those programmes gave rise to great indignation among the viewers and to awareness that such a crime in fact violates fundamental rights. The danger nevertheless exists that a child may be separated from his or her parents by a wrong or inappropriate decision. Situations have been observed in which only one of the parents ill-treats the child who, because of the good relationship that he or she has with the other parent and any siblings, did not wish for the separation. This being the case, the solution was not to separate the child from the family but rather to provide the entire family with therapy.

172. Since children should not be removed from their families without the provision of support or care, a structure had to be established for that purpose. The Family and Children's Support Project (PAFAC) was intended to be a response to the problems arising from the existence of ill-treatment within a family. The observation and analysis of cases of ill-treatment observed in hospitals lead to the conclusion that ill-treated children (except in exceptionally serious cases where it is recommended that the child be immediately removed from the family) who have been separated from their families develop feelings of guilt and repulsion for their parents, and that the separation can also lead to risks of violence towards other children who

have not been so separated or are born after them. It has been recognized that only systematic support for the family can help it to organize itself. By providing the family and the child with therapeutic support - medical, psychological and pedagogical assistance - the project aims to provide an alternative to the child's removal to an institution, which should always be the solution of last resort.

173. PAFAC is presently run by the Office of the High Commissioner for the Promotion of Equality and the Family, and its objectives are:

(a) To detect situations involving ill-treatment of children by establishing contact with hospitals and setting up a hotline;

(b) To make an accurate diagnosis of family dysfunctions responsible for ill-treatment of children and report them to the competent authorities (ministry, protection committees, courts);

(c) To take the requisite measures to put an end to any situation placing the child at risk.

174. The measures adopted with a view to ensuring protection and special support for children who have been temporarily or definitively deprived of their family environment or who, in their own interests, cannot remain with the family, are listed in the programme of the 13th Constitutional Government and have already been mentioned in paragraphs 85 ff.

175. In this respect, the following measures should also be mentioned:

(a) The collection of data, by the Department of Social Action, on the situations of children observed by the regional social security centres, the Santa Casa da Misericórdia and the Casa Pia in Lisbon, in 1995 and 1996, disaggregated by causes, case history and present situation in terms of the child's social and family integration. The data have been collected and are presently being processed;

(b) The drafting by the Department of Social Action of a study on "children at risk". The study researches the factors likely to influence the normal development of children, analyses statistical data with special impact in this area and briefly reflects on strategies for action;

(c) The establishment of a working group to study questions regarding children at risk (joint order of 11 February 1996, published in the *Diário da República*, second series, No. 2, of 3 January 1997); the group has already drafted a systematic report in three sections:

(i) List of interministerial nationwide programmes on children (characteristics and overall evaluation);

(ii) List of needs and analysis of the main problems affecting children;

(iii) Proposal to create a technical structure able to define, orientate and evaluate policies concerning children.

Temporary family replacement measures

176. **Foster families**: Families considered suitable to provide this service, provide transitional and temporary homes for children and young people whose natural families are not in a position to fulfil their social and educational roles. The framework legislation is decree law No. 190/92 of 3 September. The objective of foster families is to provide children and young people with a social family environment conducive to the development of their personalities, replacing the natural family for as long as the latter is unable to provide such an environment.

177. **Homes for children and young people**: This is a social facility aimed at giving children and young people a structure in their daily lives that is as close as possible to that of their families, with a view to their overall development. The framework legislation is decree law No. 2/86 of 2 January 1986. The objectives of the homes are, first, to enable children to meet all their essential needs in conditions that are as close as possible to those of a family; second, to promote the child's integration in the family and the community; and, third, to provide all the means likely to help children achieve personal, social and occupational fulfilment.

178. To meet those objectives, the homes must:

(a) Respect the individuality and privacy of each child;

(b) Encourage and stimulate children's physical and intellectual development and absorption of standards and values;

(c) Ensure that children receive, through the local health services, the care needed for a good level of health, in particular with regard to the prevention and detection of abnormal situations;

(d) Provide children with a healthy diet, appropriate in terms of quality and quantity to their age, without prejudice to situations in which children require a special diet;

(e) Provide the means required for children's personal development, schooling and vocational training in close cooperation with the family, the school and the local vocational training facilities;

(f) Create, using the resources available locally, the conditions for leisure activities suiting the interests and potential of children.

179. **Reception centres**: These are a social response in the form of a facility for children in need of urgent, short-term care. The main difference between reception centres and homes is that the reception centres tend to receive young children in emergency situations requiring rapid study and transfer, meaning that stays in the centres are shorter than those in the homes. The centres are characterized by specialized personnel, and their operating costs are higher on average than those of a home. Their objectives are, first, to enable the children or young people to meet all their basic needs in conditions as close as possible to those of the family; second, to promote their integration into the family and the community; and, third, to provide all the means likely to enhance their personal and social development.

Definitive family replacement measures

180. **National adoption**: National adoption is a relationship legally established between two persons, similar to natural filiation but independent of blood ties. The framework legislation is decree law No. 185/93 of 22 May 1993.

Table 13

Changes in the number of social services and facilities by social response

Service and facility for children and juveniles	1994 (Number)	1995 (Number)	Increase percentage
Support for families (foster families)	1 537	1 563	1.7
Support for families (natural families)	1 332	1 611	21.0
Homes	232	245	0.6
Adoptions	285	262	(-) 0.8

Source: DGAS on the basis of Financial Management Institute (IGF) data.

Table 14

Changes in the number of social development users by social response

Service users	1994 (Number)	1995 (Number)	Change percentage
Support in family (foster families)	2 067	2 135	3
Support in family (natural families)	1 875	2 236	19
Homes	9 661	10 210	6
Adoptions	395	347	(-) 12

Source: DGAS, on the basis of IGF data.

181. **International adoption**: International adoption is like national adoption except that it concerns only children for whom no adoptive family is found within the country. The framework legislation is decree law No. 185/93 of 22 May 1993.

Paragraph 81 of the 1996 guidelines

182. There is nothing special to report with regard to the measures taken to ensure continuity in children's upbringing, taking account of their ethnic, religious, cultural and linguistic background, given Portugal's specific size and homogeneity, which have already been mentioned.

Paragraph 82 of the 1996 guidelines

183. The joint order of the Minister of Justice and the Minister of Solidarity and Social Welfare, published in the *Diário da República*, second series, No. 92, 19 April 1997, accurately reflects the concern of the Government to change the present situation.

184. The Convention on the Rights of the Child provides that the States shall make available alternative forms of protection for children; these can, in certain conditions, include adoption. Decree law No. 185/93 of 22 May 1993 institutionalized close cooperation and coordination between the services of the Ministry of Justice and what was known at the time as the Ministry of Employment and Social Security. The decree's underlying philosophy was to avert situations presenting a serious risk for the child, by trying first to find solutions within the family itself and only subsequently indicating the means of replacing it. It also defines the order of preference, going from direct family members to national adoption and, lastly, to intercountry adoption as a subsidiary measure. The amendments to the decree cover both substantive and procedural aspects, concern the administrative field and have led to amendments to the Civil Code and the Minors' Guardianship Regime and to the abrogation of decree law No. 274/80 of 13 August 1980. The decree aims to standardize the entire system, with regard to both court and administrative procedures.

185. The changes introduced have given the social security services greater responsibility in respect of adoption, in that they have paved the way for broader intervention and more strictly defined conduct in all the phases of the process in cases of both national and intercountry adoption. Those responsibilities concern the activities of the regional social security centres, the Santa Casa da Misericórdia (for the city of Lisbon) and the Department of Social Action, which has been designated as the central body.

186. The social security services are obliged to make a thorough study of all the participants in the process - natural family, child, prospective parents - and all the phases prior or subsequent to the decision. With a view to ensuring the best possible decision, several steps have been provided for: entrusting the minor to administrative wardship, entrusting the minor to the wardship of the court, selection of prospective adoptive parents, support measures during the pre-adoption period and the establishment of the final report to be submitted to the court making the adoption decision. The child's participation and preparation with a view to his or her proper integration into the new family is ensured by the social security services. Article 1981 of the Civil Code stipulates that minors over the age of 14 cannot be adopted without their consent.

H. Adoption (art. 21)

Paragraph 83 of the 1996 guidelines

187. After 100 years during which the institution of adoption was totally alien to the Portuguese legal order, the 1966 Civil Code finally recognized adoption as giving rise to legal family relationships. It was chiefly, however, after family law was modified during the sweeping revision of 1977, following the instauration of democracy and the approval of the present Constitution of 1976, that the institution of adoption was developed in Portugal. Adoption is now understood to be essentially a legal relationship similar to filiation; for it to

become final, there must be an emotional bond between the prospective parents and the child allowing for the reasonable supposition that there will be a positive development in terms similar to those of natural filiation.

188. Adoption can be finalized only by a court, which will always bear in mind the overriding interests of the child. This is the most important aspect to consider, not only in the decision finalizing the adoption, but also in the intermediary steps, which are sometimes carried out by the administrative authorities.

189. The Portuguese Adoption Act - decree law No. 185/93 of 22 May 1993 - aimed to create a system of shared responsibility. By institutionalizing close cooperation between several services, it endeavours to outline a timely family life project for the child who has been deprived of a normal family life in what is considered an irreversible manner in terms of recovery of the emotional bond with the biological parents. The preamble to the Act quotes Council of Europe recommendation No. 1074 of 1998 regarding family policy, recognizing the family as the place in which family relationships are deepest and richest and, consequently, the best place for educating children.

190. Right from birth and in particular during infancy, every child needs a balanced relationship with both parents, a relationship that must develop without interruption while the child is a minor, with the changes that arise naturally during the different phases of the child's development.

191. Any decision, either to place the child with an adoptive family or to finalize the adoption, must be based on detailed and accurate information on the situation of the prospective parents, provided by the relevant social security services.

192. One of the most important questions to assess in the adoption process is indeed the psychological relationship with the parents, whose consent must be given, unless the facts as verified are so serious and significant that that consent is in no way required in the view of the judge, given the breakdown in the emotional bond between the child and the parents.

193. The child must be heard if he or she has reached the age of 14, although the Government's proposed amendment to the Adoption Act would lower that age limit to 12 years.

194. The process must be based on prior observation that the conditions for adoption have been fulfilled. However, the legal relationship cannot be created unless several things have been established, namely the age of the adoptive parents, the length of the marriage and the development of reciprocal emotional ties between the child and the prospective parents.

195. Once fulfilment of those conditions has been ascertained, support must be provided throughout the preliminary phase of the procedure in order to guarantee accurate information and adequate protection for the child. This support, followed by an evaluation in the form of a report submitted to the judge, is provided by teams made up of specialized personnel from the regional social security centres and the Santa Casa de Misericórdia in Lisbon. However, checks carried out in the past two years (1996 and 1997) have revealed several inadequacies in the teams, whose very limited composition does not give them the interdisciplinary skills required.

196. The adopted child acquires the status of child of the adoptive parents, and benefits therefore from all the rights inherent to his or her new family relationship. At the same time, there is a break with the biological family, as Portuguese law does not provide for the right of the child to know who his or her biological parents are. Decree law No. 185/93 is clear: the fact that the child knows who his or her biological parents are can be detrimental to his or her development in view of the feelings of ambivalence and problems of identity such knowledge can give rise to, and of the feelings of concern of the adoptive parents and the negative consequences thereof on the tranquillity of the new adoptive family. The records, however, are not destroyed, and adopted children can have access to all the information on their origins once they reach age 18.

197. In spite of all the measures taken to encourage adoption, the number of adoptions remains very low, in particular in view of the high number of children placed in homes. The Government is deeply concerned by the situation; a study conducted on the basis of information provided by the Social Security Inspectorate revealed that various changes were necessary, in particular with regard to the steps to be taken prior to adoption.

198. It also proved necessary to provide the social security services with interdisciplinary teams for specific duties in the field of adoption. The most important step, however, is undoubtedly to define institutionalization of the child as a measure of last resort. Preference should be given to the constitution of an adoptive family while there is still time to establish emotional bonds on a par with blood ties and after it has been proven that the relationship - or emotional bond - between children and their natural parents has been irreparably damaged.

199. The Adoption 2000 Programme was created to analyse the existing situation in depth and to propose legislative or administrative measures to extend adoption to a greater number of situations and to expedite its finalization. The coordinating group is made up of representatives of the Ministries of Solidarity and Justice and the Office of the High Commissioner for the Promotion of Equality and the Family.

200. In view of the importance of the matter, the Office of the High Commissioner convened a special session of the National Family Council to assess proposals, having made a recommendation to the Government on the matter. It must also be said that Parliament's Commission on Parity, Equal Opportunity and the Family and the Commission on Rights, Freedoms and Safeguards conducted hearings on adoption in early 1997. This step gave rise to such intense attention on the part of the media that it led to the realization of programmes on the topic. Immediately after the proposed legislative amendment had been approved, Parliament conducted a second set of hearings of professionals and services dealing with adoption, individuals and non-governmental organizations, with the aim of familiarizing itself with their proposals and suggestions.

201. It must be emphasized that the proposed amendments are not substantive and that the modifications provided for concern above all procedural matters. Indeed, decree law No. 185/93 institutionalized close coordination and cooperation between the services run by the Ministry of Justice and what was then known as the Ministry of Employment and Social Security. In practise, the decree law did not have the concrete effects anticipated.

Paragraph 84 of the 1996 guidelines

202. With regard to international adoption, Portugal is above all a source country for children, although the number of intercountry adoptions remains low. The principle of subsidiarity is set forth in the legislation. The only cases of intercountry adoption concern children who have not found adoptive parents nationally and they are, in general, "children with special difficulties" (older children, handicapped or seriously ill children, children from other ethnic groups and siblings).

Paragraph 85 of the 1996 guidelines

203. Portugal has not yet ratified the Hague Convention of May 1993 on Protection of Children and Cooperation in respect of Intercountry Adoption, but it plans to do so (legislative reform on adoption).

204. The progress made by the State, the difficulties encountered and the objectives it has set for the future are discussed below in paragraphs 217 ff.

205. The data on children entrusted in 1994 to dual-national emigrants and to non-resident aliens and whose adoption will be finalized in the adoptive parents' country of residence are given in the table below.

Table 15

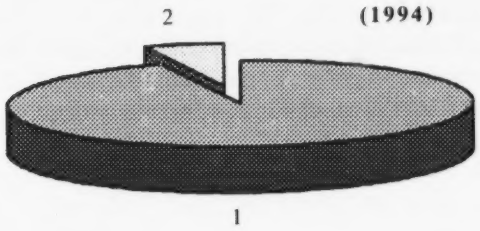
Adoptive parents and form of handover	Dual national emigrants		Non-resident aliens		Total
Age groups and handicap	Through the social security services	Directly to the adoptive parents	Through the social security services	Directly to the adoptive parents	
Under one year		1	1		2
Without a handicap			1		1
With a handicap		1			1
From 1 to 3 years old			7		7
Without a handicap			4		4
With a handicap			3		3
Over 3 years old	3		9	2	14
Without a handicap	3		5	2	10
With a handicap			4		4
Total	3	1	17	2	23

Source: IGF and 1994 social security statistics.

Figure A

National/intercountry adoption

(1994)



1 : National adoption
2 : Intercountry adoption

Source: DGAS, on the basis of IGF data.

I. Periodic review of placement (art. 25)

Paragraphs 86 and 87 of the 1996 guidelines

206. This is undoubtedly one of the rights recognized by the Convention which have been most difficult to put into effect. The fact is that children who have been placed in care often have to wait indefinitely for their situation to be reviewed. Where placement has been decided by a court, the law provides for a compulsory periodic review, both in cases where children have been placed in an institution for their safety and in cases where they have been admitted to secure rehabilitation institutions. The problem is more serious and very worrying in the case of placements that are outside judicial control. The placement of children in homes and shelters is governed by rules and regulations, but these do not have the force of law.

207. With regard to the interaction between public and private services, the Adoption 2000 programme envisages practical rules to improve coordination between social security services and:

(a) Health services, to ensure that abandoned children are taken into care quickly;

(b) Courts, to make their proceedings less forbidding;

(c) Minors' protection boards, to take children at risk into care quickly;

(d) Emergency shelters, to ensure that children only stay in them for short periods;

(e) Children's shelters and minors' protection bodies, to boost the realization of the rights of the child, the prompt detection and identification of risk situations and the periodic review of custody decisions (art. 4, para. 1, of decree law No. 185/93, of 22 May 1993, and art. 25 of the Convention on the Rights of the Child).

In this way, the necessary procedures for detecting and identifying children at risk and for taking them into care will be drawn up, enabling steps to be taken to have the child placed in a family or institution or adopted as quickly as possible.

208. It is hoped that the reform of the legislation on children at risk, referred to in Cabinet decision No. 193/97 of 3 November 1997, will establish an effective monitoring system that ensures a frequent periodic review of placement.

J. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

Paragraph 88 of the 1996 guidelines

209. Generally speaking, the information given in the initial report (CRC/C/3/Add.30, paras. 118-124) still applies. However, the 1982 Penal Code has been the subject of a major reform which, while preserving its core philosophy, has introduced amendments to provide better protection for non-property interests, among other things. In this context, sentences for crimes against the person, especially against children, have generally been increased. Thus, in the reform passed into law by decree law No. 48/95, of 15 March 1995, the crime of ill-treatment of minors, as laid down by article 152 of the Penal Code, is now punishable with 1-5 years' imprisonment. It should be pointed out, moreover, that it is no longer necessary to prove that the ill-treatment was inflicted with cruelty or selfish intent, but only that it was violent. This requirement in the previous legislation had been criticized not only by non-governmental organizations but also by childcare professionals, in view of the obvious problems it caused in ensuring that the perpetrators of these crimes were punished. This offence mostly concerns violence inflicted on a child by parents or the person bringing the child up.

210. Similarly, there are situations in which minors are physically overloaded or employed in dangerous activities; it is now expressly established that an offence of this kind can be committed by a person with a subordinate working relationship with the minor.

211. For more on the system of penalties for sex offences against children, see paragraphs 536 ff. below.

212. With regard to civil measures to protect children, the legal framework described in paragraphs 118-120 of the initial report is still valid. It should be mentioned, however, that the reform of the legislation on children at risk (analysed above) is certain to be introducing significant changes soon. This reform is basically aimed at expediting, with due respect for the strict criteria that are applicable, a decision on the future of children who have been ill-treated, abandoned or sexually abused, once they have been rightly taken away from their parents in their own best interests.

Paragraphs 89-91 of the 1996 guidelines

213. The physical and psychological recovery and social reintegration of child victims of violence, abandonment or neglect required by article 39 of the Convention are taken care of by public services and private institutions. The references in the initial report are for the most part still valid. The official organizations set up to provide support for child victims of violence - the Family and Children's Support Project (PAFAC) (see paras. 172-173) and the Children's

Department of the Office of the Ombudsman - have already been mentioned in the initial report. They both have emergency helplines; that of the Office of the Ombudsman is called the "Green Line - Children's Messages", which shows the importance attached to it.

214. The major legislative and administrative reform announced recently by the Ministry of Solidarity and Social Security will have far-reaching consequences on psychological support for child victims of physical and mental ill-treatment. It is expected that the methods, organization and effectiveness of PAFAC will be improved and that the structure and scope of the minors' protection boards will be reconsidered.

215. The "SOS for Children" telephone line established in 1988 by the Child Support Institute also does outstanding work in the area of prevention, support, information, guidance and handling of these situations. The work in this area of the Portuguese Association for the Support of Victims and the Portuguese Association for Child and Family Law should also be highlighted, as these two associations take a keen interest in the social rehabilitation of child victims of neglect, exploitation or abuse.

216. It is also important to mention the Children's Emergency Service, the body which organized the World Children's Forum, held in Faro from 6 to 10 October 1997, on the theme of Children's Safety. The Forum was attended by representatives of non-governmental organizations from around 100 countries and issued a declaration, the Faro Declaration, listing a series of measures that non-governmental organizations and Governments could take to make the world safer for children, including:

(a) Endeavouring to interest communities in development programmes and to encourage them to become involved;

(b) Establishing a system whereby schools and kindergartens contribute to the development of community and social networks for children;

(c) Rethinking existing funding mechanisms, particularly that of the World Bank. While seeking to systematize the concerns of non-governmental organizations, the Forum encouraged them to form alliances so as better to influence Governments, and to help promote the use of information technology as a learning tool and information source and as a means of publicizing and raising awareness of the rights of the child, and also as a way of letting children speak up on matters affecting them.

VI. BASIC HEALTH AND WELFARE

A. Disabled children (art. 23)

Paragraph 92 of the 1996 guidelines

217. The data on the child population with disabilities or special needs may not appear absolutely clear. In 1996, a survey on disabilities was published under the auspices of the Department of Rehabilitation. The survey, which took the form of a household questionnaire, covered 142,114 individuals, or 47,020 families. Sampling was probability-based, using the area

frame sampling method and following a two-fold process (because the final sample of housing units was obtained in two stages). This technique is commonly used in family surveys and is widely used in epidemiology (especially in health surveys) and the data it provides are used as a reference in planning services.

Table 16

Number of people with disabilities[a]

Disability	Age group[b]				Total population with disabilities
	0-2 years	3-5 years	6-15 years	16-24 years	
Mental	1 447	1 076	18 092	17 680	127 228
Sensory	473	1 700	11 208	10 299	219 311
Physical	4 149	7 881	20 279	24 177	571 652
Multiple	413	649	2 719	2 079	25 352
Total	6 482	11 306	52 298	54 235	943 543

Source: Department of Rehabilitation, National Survey of Impairments, Disabilities and Handicaps.

[a] "Disability" is understood to indicate a high probability of "impairments" with regard to spatial orientation, physical independence, mobility, occupational capacity, social integration and financial independence.

[b] In Portugal, the available statistical data on disabled children or young people cover the age group from birth to age 24.

Table 17

Number of people with disabilities, by sex

	Age group				Total population with disabilities
	0-2 years	3-5 years	6-15 years	16-24 years	
Male	2 920	5 532	19 932	23 661	479 555
Female	3 572	5 501	31 832	30 427	425 932
Total	6 492	11 033	51 764	54 088	905 487

Source: Ibid.

Table 18

Permanent disability

Disability	Age group			
	0-2 years	3-5 years	6-15 years	16-24 years
Mental	915	567	11 613	15 571
Sensory	250	679	7 966	10 417
Physical	1 768	4 265	13 337	19 242
Multiple	342	615	2 609	1 869
Total	3 275	6 126	35 525	47 099

Source: Ibid.

Table 19

Probable cause of disability (as a percentage)

Disability	Common disease	Heredity	Childbirth	Pregnancy	Domestic accidents	Road accidents	Other accidents	Other causes
Mental	25.8	14.3	11.5	14.4	2.18	2.48	2.08	18.9
Sensory	33.3	12.1	4.7	4.6	3.6	2.1	2.7	15.2
Physical	34.1	11.4	3.6	4.4	3.3	4.3	2.0	14.3
Combination	17.4	9.2	13.0	4.8	1.3	0.6	1.2	22.2

Source: Ibid.

218. Some definitions related to the survey carried out:

(a) Heredity: this term covers all genetic transmission deficiencies, chromosomal anomalies and hereditary diseases that run in the family;

(b) Pregnancy: this term covers all deficiencies caused during the gestation period as a result of toxaemia of pregnancy, infections during pregnancy, chronic illness in the mother or the Rhesus factor;

(c) Childbirth: this covers all deficiencies caused at childbirth, or injuries suffered by the child as a result of, for example, the use of forceps or suction, a long labour or anoxia;

(d) Accidents: all deficiencies resulting from road accidents, accidents at work (or those occurring on the way to work, in accordance with the law) or in the home and others.

Table 20

Type of disability

	Age group				Total population with disabilities
	0-2 years	3-5 years	6-15 years	16-24 years	
Blindness	0	0	507	463	14 959
Visual impairment	254	535	3 251	4 434	103 065
Deafness	0	100	1 651	1 337	21 004
Hearing impairment	0	516	3 411	3 059	75 691
Speech defect	219	527	2 843	1 363	15 229

Source: Ibid.

219. With regard to diagnosed conditions, it is possible to extrapolate data from studies carried out in other countries, particularly in Scandinavia. According to this study, the incidence and prevalence of diseases can be estimated for the population in the age group from birth to age 17 as follows:*

Table 21

Condition	Incidence (per thousand)	New cases in Portugal
Cerebral palsy	3	360
Spina bifida	1	130
Down's syndrome	1.5	200
Serious mental retardation	3	360
Moderate mental retardation	2	230
Hydrocephalus	3	360
Slight mental retardation	3	360
Minimal brain dysfunction	40	4 000

Source: Kohler, L. and G. Jakobsson, *Health in the Nordic Countries, 1995.*

* See editor's note on p. 4.

Table 22

Condition	Prevalence for population aged 0-18
Serious mental retardation	6 000
Slight to moderate mental retardation	10 500
(Ditto, with major handicap)	*(2 000)*
Serious learning difficulties	6 000
Moderate learning difficulties	40 000
Physical disability	6 000
Serious visual impairment	4 000
(Ditto, with major handicap)	*(1 650)*
Congenital cataract	825
Optic atrophy	400
Retrolental fibroplasia	400
Retinoblastoma	200
Congenital glaucoma	200
Serious hearing loss	3 300
(Ditto, with major handicap)	*(1 150)*
Serious deafness	2 000
Child psychosis	1 150
Autism	790
Total locomotive ataxia	7 900
(Ditto, with major handicap)	*(2 640)*
Cerebral palsy	5 000
Down's syndrome	2 000
Epilepsy	7 900
Minimal lesions syndrome	40 000

Source: Ibid.

In summary, it can be stated that 9 out of every 100 children have some form of disability or handicap.

220. It is the responsibility of the Ministry of Education and the Ministry of Solidarity and Social Security to attend to the situation of children with disabilities. Act No. 9/89 of 2 May (prevention, rehabilitation and integration of disabled persons) promotes and guarantees the exercise of constitutional rights in this area.

221. Early technical support of a social and educational nature is provided to disabled children and young people; it includes a range of measures specially for children up to age 6 who are in high-risk situations or who have a disability, and for their families. This support is available in the places where the children spend most of their time, that is, at home, with a childminder or in the crèche or kindergarten, and is designed:

(a) To create conditions that facilitate the learning process for the children, so that their development matches as far as possible the phases characteristic of their particular age group;

(b) To reduce to a minimum the problems arising from risk situations and/or the disability, by stopping them from getting worse and forestalling side effects;

(c) To facilitate the development of parenting skills;

(d) To help create optimal conditions for their integration;

(e) To encourage research and action.

222. Joint order 554/SEED/SES/SESS/94, issued on 30 August, set up a working group involving the ministries of health, education, and solidarity and social security to study and report on the situation. Its report, submitted in August 1995, contains not only a survey of existing bodies, the preferred theoretical framework for early intervention, organizational terms of reference and guidelines for action, but also a proposal for the preparation of a legal text.

223. In February 1996, the working group defined the concept, nature and objectives of early intervention and highlighted its guidelines for action, as well as its structure, organization and operation. It also laid down rules for funding and cooperation:

(a) The emphasis is on the family, which now has a fundamental role in any intervention, as the family environment and the relationship of trust between families and professionals are of the greatest importance;

(b) The therapeutic, medical or psychological model fits into the social model that places the child in the context of the family and the family in the context of a broader environment;

(c) The preventive nature of this action is stressed so that its full benefits can be reaped, as it is in the first years of life that basic learning processes, which are decisive in the development of appropriate models for parent-child interaction, are established.

224. The Ministry of Solidarity and Social Security and the private social welfare institutions under its supervision run a network of services and facilities to support children and young people with disabilities.

225. The rehabilitation master plan devised by the former Department for Rehabilitation, now the Department for the Rehabilitation and Integration of Disabled Persons (SNRIPH), in collaboration with official bodies and with associations, which applies to all organizations working in the rehabilitation system, was the subject of Cabinet decision No. 51/88. The Minister of Employment and Social Security was given the task of ensuring coordination between the various ministries. The plan has become the prime management tool for enhancing cross-sectoral cooperation in the rehabilitation system.

226. In order to take this process forward and flesh out government policy, a commission was set up in 1994 to prepare and follow up a plan of action for rehabilitation up to 2000, by joint order of 12 September 1994 of the ministries of education, public works, transport and communications, health, and employment and social security, chaired by the head of the Department of Rehabilitation.

227. In working towards the goal of a "society for all in the twenty-first century" set by the United Nations, efforts are being made to define sector-wide operational measures as part of an eventual comprehensive policy for disabled persons. An agreement has been reached with the Higher Institute of Labour and Business Sciences (ISCTE) on providing technical and scientific assistance in the preparation of an analytical study on the state of the rehabilitation system in Portugal and on monitoring implementation of the plan of action.

228. SNRIPH is running a number of programmes, projects and activities aimed at all age groups; given their great impact on children and young people, these are described in more detail below.

Research support programme

229. Given the progress made in research into rehabilitation in recent years, it has been found necessary to establish a coordinated system that can ensure that the sector is supervised methodically and resources used rationally. Thus, with a view to establishing a national system to supervise research and development in rehabilitation and to encourage project work in this field, SNRIPH has finalized a programme to coordinate research and development in rehabilitation which includes the following projects:

(a) The ATINOVA project: part of the "Employment/Horizon" initiative and co-financed by the European Social Fund, this project aims:

(i) To create a network of pilot technical-support centres with expertise in all phases of research, information, assessment, prescription, allocation, training, monitoring, maintenance, recovery and technical support;

(ii) To promote the implementation of a nationwide system;

(iii) To design an online distance-learning system for disabled persons and rehabilitation professionals, using technical support, support technologies and innovative methodologies;

(b) The Commission on Equality in Employment (CITE) programme: this was set up to encourage research into rehabilitation through project support, research grants and awards for scientific merit. In June 1995, the CITE network project, which also operated at the community level, was started up to support networking between rehabilitation research institutions and to ensure that experience was shared and full use made of findings.

Development of a specialized information system

230. In February 1992, under the agreement reached with the Employment and Occupational Training Institute, a nationwide network of Handynet centres was set up to provide information and advice on technical support. The network, which consists of 142 centres, is spread out over the whole country and operates in the offices of ministries of health, employment, solidarity and education, and also in the Secretariat of State for Youth (Portuguese Youth Institute and its branches), as well as some non-governmental organizations.

231. A science and technology information network has recently been established which gives online access to several databases in Portugal and Europe, bringing together a vast amount of information needed for planning and carrying out science and technology research projects in the field of rehabilitation.

Technical support

232. The technical support that is vital in the rehabilitation process for developing the personal independence of the disabled person is receiving special attention from the relevant authorities. In June 1995, the above-cited Handynet project was finalized, as was the ATINOVA project mentioned earlier. The latter is basically active in the field of technical support and aims to forge links between the regulatory and financial bodies, existing information and advice centres and technical support research centres. It is also responsible for publicizing updated scientific and technical information and innovative methodologies in the area of technical support.

Personalized reception, information and support

233. The QUALI project, which receives community funding, was finalized in 1995. It was designed to reorganize, revamp and improve the performance of the personalized reception service for disabled persons and their families, including through the installation of the "Direct line for the disabled".

234. The Reception and Accessibility Centres Network (RENAACE), launched in 1996 with support from the Horizon initiative, is intended to set up local reception services capable of giving information and analysing and assessing the needs of disabled persons, by identifying and mobilizing resources available locally and by paying special attention to accessibility in towns, buildings and transport, as crucial factors in integration.

Accessibility

235. With regard to accessibility issues, in 1993-1995, SNRIPH worked on the community-funded PROACESSE project with the main objective of alerting all the bodies concerned and the public at large to the need to remove physical obstacles, especially those affecting the use of buildings, open spaces in cities and public transport, as a precondition for improving the quality of life of persons of limited mobility. This project has made a great contribution to raising awareness among all social actors, particularly local community leaders and professionals in the construction, public works and transport industries.

236. In the context of the RENAACE project, attention is drawn to decree law No. 123/97 MESS, of 22 May 1997, on technical standards for improving accessibility for persons of limited mobility to public buildings, community facilities and streets.

International cooperation

237. Cooperation is gradually being stepped up, as more technical information becomes available and advantage is taken of access to knowledge of good practice in the area of impairment and rehabilitation. In this area, work is systematically carried out together with the Council of Europe, the United Nations, the European Union and Rehabilitation International. With regard to action taken to guarantee equal opportunities to disabled persons and their right to be involved in protecting their own interests, the European Community launched the HELIOS programme in 1988, followed by HELIOS II (1993-1996). The areas in which the HELIOS programme is being implemented and action taken are: functional rehabilitation, integrated education, training and economic integration, and social integration and independent living. The aims of HELIOS II are, first, to develop a policy of cooperation at the community level on the basis of best practice and innovative and efficient practices in member States and, second, to cooperate with non-governmental organizations working at the European level and those which see themselves as representing member States.

Sport, culture and recreation

238. Sporting, cultural, recreational and tourist activities are an integral part of the rehabilitation process and, as such, should be encouraged and supported by the Government, either through the Department of Tourism, the Portuguese Youth Institute and the Sports Institute, or through the Department of Rehabilitation. Since the sports vacation programme was launched in the 1980s by the Portuguese Youth Institute (see chap. VII, sect. C, "Leisure and cultural activities", para. 439), the Department of Rehabilitation has made available funds that have helped provide sports activities for disabled persons, particularly children and young people.

239. In order to allow as many people as possible to benefit from projects in these areas, a national sports, culture and recreation programme was launched in 1995, with funding of 50 million escudos. The programme complements and is coordinated with the work of the Sports Institute and the Ministry of Education, giving priority to artistic, cultural and recreational activities. Around 73 per cent of the institutions receiving support under the programme are especially for children and young people.

Table 23

Year	Activities	No. of NGOs	No. of persons concerned
1995	Recreational activities	12	3 369
	Artistic/cultural activities	17	6 786
	Holiday camps	40	2 518
	Sports activities	16	1 510
	Total	85	14 183
1996	Recreational activities	19	4 442
	Artistic/cultural activities	43	2 870
	Holiday camps	65	3 965
	Sports activities	39	2 495
	Total	166	13 772

Source: Department for the Rehabilitation and Integration of Disabled Persons (SNRIPH).

Support for non-governmental organizations

240. The Ministry of Education provides financial support to 85 non-governmental organizations working in the area of special education for disabled children and young people up to age 18. In 1997, funding exceeded 2 billion escudos. SNRIPH gives financial support to a wide range of non-governmental organizations, including 205 that work directly and exclusively with the youngest age groups. Most of the others deal with all age groups.

Table 24

Year	Subsidies for running costs (escudos)	Subsidies for projects (escudos)
1995	175 000	15 000
1996	190 000	15 000

Source: SNRIPH.

Special education for disabled persons

241. In accordance with article 17 of the Education Act, special education is aimed at the social and educational rehabilitation and integration of individuals with special educational needs resulting from physical or mental impairments. The process of reform initiated by the Act is characterized by the introduction of a large body of legislation designed to put its general principles into practice.

242. The issuance of decree law No. 35/90, of 25 January, was an important step; it stipulates that no child, whatever the nature or degree of his or her impairment, is exempt from compulsory schooling. Until then, all the relevant legal texts contained norms that, in one way or another, exempted disabled pupils from compulsory schooling.

243. Another legislative landmark for special education was decree law No. 319/91, of 23 August 1991, on the educational system for pupils with special educational needs. This decree makes ordinary schools responsible for their education and for providing suitable educational responses to the particular problems of the disabled. The schools' management and administration bodies are responsible for implementing the special education system, by making use of a combination of mainstream and special education teachers or, as appropriate, psychological and guidance services. The decree also has a provision to the effect that, where the measures provided for under the special system prove to be clearly inadequate, because of the type and degree of the pupil's impairment, the pupil may be placed in a special school.

244. The recently issued joint order No. 105/97, of 1 July 1997, changed the regulatory framework for educational support. The order is based on a conceptual and organizational model that recognizes the needs of the school and of the ordinary teachers and their responsibility towards pupils with special educational needs. This new piece of legislation thus represents a step forward in educational policy, including with regard to:

(a) The role and responsibility it attributes to the school in the education of all pupils;

(b) Its approach to the education of pupils with special educational needs in relation to that of pupils in general;

(c) Its recognition that support measures are part of the interaction between the school's needs and pupils' various needs;

(d) The integrated and interactive organization of the various forms of educational support in school.

245. Responsibility for administering, managing and funding special educational services currently lies with two ministries: the Ministry of Education and the Ministry of Solidarity and Social Security. The current educational facilities for children and young people of school age with special educational needs are basically of two kinds: first, special schools in the public and private sectors and, second, the network of official services provided by the Ministry of Education, consisting of special educational teams that support integrated education.

246. **Special schools:** These schools, which have various types of legal status, fall into one of the following categories:

(a) *Private and cooperative schools* under the responsibility of the Ministry of Education, which are divided into two main groups:

(i) *Non-profit schools:* schools run by cooperatives and associations which may or may not have the status of private social welfare institutions, the largest group being the teaching and rehabilitation cooperative associations (CERCIS), whose support from the Ministry of Education is defined by ministerial order and spelled out in cooperation agreements with the Department of Basic Education (DEB);

(ii) *For-profit schools:* schools whose maximum monthly fees are set by the Government as the costs have a direct impact on social security expenditure, via special education grants, and which usually have contracts with DEB;

(b) *Officially recognized schools,* falling under the responsibility of the Ministry of Solidarity and Social Security. Regional social security centres have the sizeable task of ensuring the provision of services in State schools, homes and occupational support centres and providing financial support in the shape of grants to private social welfare institutions. The latter, of which the largest is the Portuguese Association of Parents and Friends of Mentally Disabled Citizens (APPAEDM), account for a large proportion of social and educational institutions. The Ministry of Education has also made a significant contribution to these institutions by seconding teachers, granting support for school welfare and paying families' contributions to fees.

247. **Integrated education:** Support for the integration of pupils with special educational needs into ordinary schools is given by special education teams. These community-based teams can be found all over the country. Each team may include teachers for different educational levels; their composition is variable, depending on the needs of the geographical area which they cover. A coordinator is responsible for their performance.

248. The teams' work mostly takes the following forms:

(a) Permanent support classes: these take place in a specially equipped classroom in an ordinary school. Pupils with severe mental impairments, multiple impairments or serious problems in communicating are usually put in these classes. The children attend the classes full-time, and thus take part in the life of the school during breaks, in the canteen and on special occasions and trips;

(b) Support units for children with hearing impairments: these are special classes for pupils with severe or profound hearing difficulties, held in ordinary schools at all stages of compulsory education. They usually have special equipment, a customized classroom and specialist teaching and auxiliary staff;

(c) Support classes: these take place in ordinary schools and are for pupils experiencing learning difficulties in ordinary classes. The pupils are taken out of lessons and given support individually or in small groups, for a certain amount of time every week, depending on the individual case. This is the support strategy most frequently followed by special needs teachers;

(d) Support in the classroom: here, the special needs teacher works on a one-to-one basis with the pupil while the class teacher is giving a lesson. This kind of support is provided for one or two hours a week;

(e) Support for the class teacher: the special needs teacher attends meetings with the class teacher to discuss individual pupils, supply supporting materials, suggest teaching strategies, help adapt courses, do some small-scale training in schools, etc.

249. The data presented below are for the 1996/97 school year. Of the 45,915 children with special needs, 79.6 per cent are integrated into ordinary schools, while the remaining 20.4 per cent attend special schools.

Table 25*

Number of children attending school who have special educational needs

Number of pupils: 45 915	
Integrated education	Special education
36 519 (79.6%)	9 396 (20.4%)

Source: DEB; Assessment and Forward Planning Department (DEPP); Financial Management Office (CGF).

Table 26*

Pupils with special educational needs in mainstream schools, by type of impairment

Impairment	Pupils in school	
	No.	Percentage
Hearing impairment	2 101	5.7
Visual impairment	981	2.7
Mental impairment	8 246	22.6
Motor impairment	2 543	7.0
Specific learning difficulties	16 793	46.0
Emotional disturbances	4 201	11.5
Multiple impairments	491	1.3
Chronic illnesses	1 163	3.2
Total	36 519	100

Source: DEB and the Regional Directorate of Education (DRE) of the Ministry of Education.

Note: See also table 29 below.

* See editor's note on p. 4.

Table 27

Pupils in mainstream schools, by educational level

Educational level	No. of pupils	Percentage
Secondary	1 293	3.5
Third cycle	3 867	10.6
Second cycle	6 455	17.7
First cycle	21 234	58.1
Pre-school	2 913	8.0
Support at home	757	2.1

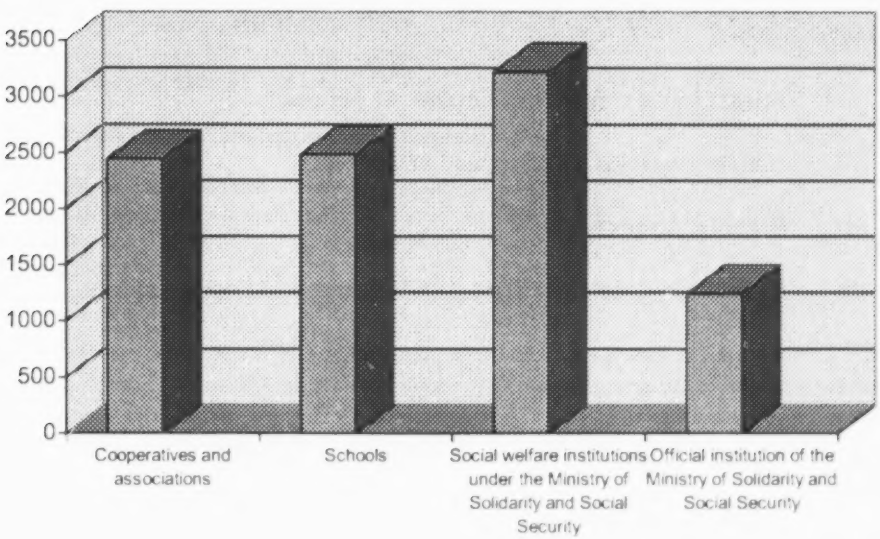
Source: DEB and Ministry of Education.

Note: See also table 26 above and table 29 below.

Clearly, there is a need for considerable investment in educational support at the level of compulsory basic education.

Figure B

Number of pupils attending special schools



Source: Ibid.

Of the 9,396 pupils attending special schools, 52.4 per cent attend schools that come under the Ministry of Education and the remaining 47.6 per cent are in social or educational institutions within the social security system.

250. **Human resources deployed in integrated education:** There are 228 special education teams in support of integrated education (see para. 247). A total of 2,815 teachers, most of whom are primary school ("first cycle") teachers, have been allocated to the teams.

Table 28*

Number of teachers in the special education teams, by educational level

Pre-school		First cycle		Second and third cycles and secondary		Total	
C/ESP	S/ESP	C/ESP	S/ESP	C/ESP	S/ESP	C/ESP	S/ESP
278	359	676	1 122	85	285	1 039	1 776
647 (23%)		1 798 (64%)		370 (13%)		2 815	

Source: DEB and Ministry of Education.

Of the 2,815 teachers, 37 per cent have had training in special education. In addition to the teachers, special schools have other specialized staff, including specialists in the areas of augmentative and alternative communication and new technologies, sign-language interpreters and trainers, psychologists and therapists.

251. **Human resources in special schools:** For the 1995/96 school year, special schools were distributed as follows:

(a) Private social welfare institutions: 41 per cent;

(b) Cooperatives and associations: 38 per cent;

(c) Schools: 13 per cent;

(d) Institutions under the Ministry of Solidarity and Social Security: 8 per cent.

In 1996/97, 981 teachers were posted to these schools; 512 to those run by cooperatives and associations and 469 to those run by private social welfare institutions. The 85 schools run by cooperatives and associations have 76 psychologists, 99 therapists and 336 special education teaching auxiliaries. The 30 schools have 416 teachers, 30 psychologists, 80 specialists and 271 auxiliaries.

* See editor's note on p. 4.

252. The various schools are funded as follows:

Table 29*

	(thousands of escudos)
1. Operational budget	
A. Costs borne by the Department of Basic Education	3 707 747
(including school welfare costs in the institutions covered by ministerial orders Nos. 994/95, of 18 August 1995, and 1095/95, of 6 September 1995)	
(i) Grants to private schools (30 schools, 2 484 pupils)	2 005 842
(ii) Grants to teaching and rehabilitation cooperative associations (CERCIS) and associations (85 CERCIS and associations, 2 443 pupils)	1 627 905
(iii) Grants to private social welfare institutions (family contribution)	74 000
B. Costs borne by regional departments of education (DRE)	515 250
Special education teams	238 480
School welfare (State schools and private social welfare institutions) (food, financial assistance and school insurance)	231 770
School welfare in private social welfare institutions (DRE budget) (food, teaching materials and transport)	
C. Costs borne by schools providing basic and secondary education	12 978 839
3 327 State-school teachers allocated to the special education teams, cooperatives and associations, and private social welfare institutions.	
Wages of teachers allocated to the special education teams	9 624 735
Wages of teachers allocated to special schools	1 750 562
Wages of teachers allocated to private social welfare institutions	1 603 542
2. Civil service integrated investment plan (PIDDAC)	290 000
A. Department of Basic Education	28 600
B. Regional departments of education	261 400

Source: DEB/CGE - 1995 figures.

* See editor's note on p. 4.

As there are as yet no figures available, it remains to be seen what costs will result from the reduction in the number of pupils per class (decree law No. 319/91), the reduction in the school component of special education teachers, and the costs of the facilities, equipment and communications needed by special schools.

253. **Production of teaching materials:** The resource centre of the Ministry of Education's Department of Basic Education is the largest centre for the computerized production of school textbooks in Braille. It also coordinates the nationwide production of these textbooks. In the current school year, 123 school textbooks will be published in Braille. The resource centre also produces audio books (textbooks and children's books), and has eight voice artists permanently working on them.

254. In the 1995/96 school year, 36,519 pupils were taught by education teams (228) or in 115 special schools coming under the Ministry of Education (85 institutions run by cooperatives and associations and 30 schools).

255. Resources are not distributed evenly throughout the country; for example, almost all (83 per cent) of the schools are in Lisbon, whereas the vast majority (80 per cent) of schools run by cooperatives and associations are on the coast. Moreover, as initiatives to establish the various institutions have never been coordinated, the distribution of schools does not match actual needs.

256. Pupils covered by the special education services provided by the Ministry of Education with the support of the Ministry of Solidarity and Social Security were distributed as follows in 1995/96:

Pupils supported by special education teams		36,519
Pupils in special schools:	Cooperatives and associations	24,443
	Schools	2,272

Table 30*

Number of pupils taught by special education teams, by educational level and type of impairment

Educational level	Hearing impairment	Visual impairment	Mental impairment	Motor impairment	Specific learning difficulties	Emotional disturbance	Multiple impairment	Chronic illnesses	Total
Support at home	58	26	520	136	0	0	0	17	757
Pre-school kindergarten	162	56	1782	388	323	90	59	53	2 913
First cycle	750	298	4 367	987	11 497	2606	304	425	21 234
Second cycle	387	190	1 130	387	3 156	895	59	251	6 455
Third cycle	445	227	409	408	1 536	522	50	270	3 867
Secondary	299	184	38	237	281	88	19	147	1 293
Total	2101	981	8246	2543	16 793	4201	491	1 163	36519

Source: DEB, DRE/Ministry of Education.

Note: See also table 26 above.

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* See editor's note on p. 4.

257. With the aim of developing suitable policies and devising effective strategies for special education, the following action is being undertaken in different areas:

(a) With regard to special schools:

(i) Study and analysis of the situation of these schools;

(ii) Standard-setting to establish conditions for their operation;

(iii) Promotion and development of administrative and technical measures;

(iv) Design, adaptation and production of special teaching materials;

(b) With regard to psychological and guidance services:

(i) Reorganization of the operations of the services and network respectively, with a view to integrated management;

(ii) Resizing, redefining and reorganization;

(iii) Definition of the functions corresponding to the various skills areas in these services;

(iv) Pooling psychological and guidance services experts with other services, bodies and experts so as to make full use of resources;

(v) Analysis and study of the various regulations governing the services and their activities;

(c) With regard to children's support units:

(i) Children with a hearing impairment:

- Improved cooperation with ordinary schools with a view to making full use of resources;
- Production of guidelines;
- Decentralization of specialist support;
- "Bilingual" education using sign language;

(ii) Children with a visual and hearing impairment:

- Development of audiological, prosthetic and psychological support;

(iii) Children with a visual impairment:

- Better and quicker process for early detection and provision of medical and educational help;
- Increasing the role of these units as a resource for schools;
- Production of guidelines;
- Agreements with hospitals;
- Diagnosis of the real situation;

(d) With regard to teaching materials for children with special educational needs:

(i) Improving the design, adaptation, production and reproduction of textbooks and other publications adapted for those with visual impairments;

(ii) Coordination of production with other services;

(iii) Support for Braille publications by means of the cooperation agreement signed with the Santa Casa da Misericórdia of Porto, which publishes books in Braille specially for blind students;

(iv) Activities conducted by the learning materials centre of the regional social security centre for Lisbon and the Tagus valley, which not only produces play and learning materials for children with special educational needs but also distributes books in Braille;

(e) With regard to teacher training, the following should be mentioned:

(i) National plan for training primary school teachers of pupils with special educational needs;

(ii) In-service training of teachers and technicians;

(iii) Training teachers to deal with multiple impairments;

(iv) Special training for teachers supporting pupils with slight visual or hearing impairments;

(v) Training for teachers in special schools run by cooperatives and parents' associations;

(vi) Training in the area of educational software;

(vii) Special training for teachers on the use of telecommunications networks (including the Internet);

(viii) Online distance training (the RACE programme);

(ix) Training teachers and technicians in the use of new technology.

258. In accordance with the Education Act, the Ministry of Education is responsible for activities relating to special education. The social security system also gives considerable support to the private and public bodies providing special education.

259. The Ministry of Solidarity and Social Security maintains special schools that are integrated in the regional social security centres and enters into cooperation agreements with social welfare institutions on the provision of technical and financial support for special education activities. Nevertheless, in pursuit of its integration policy, the Ministry also involves all public facilities and services provided for children (childminders, family crèches, kindergartens, leisure centres, holiday camps, homes and shelters, as well as host families and adoption).

260. **Early technical support and early intervention:** This refers to a social and educational response comprising a range of actions aimed at children up to age 6 who are in high-risk situations or who suffer from an impairment, and their families. This mobile support is provided wherever the child is generally to be found, that is, at home, with a childminder or at the crèche or kindergarten. It includes the distinctive "early stimulation" approach, applied in addition to other techniques, as well as support for integration. The objectives of this early technical support are:

(a) To establish conditions to facilitate the children's learning process, so that their development matches as closely as possible the "phases" typical of their age group;

(b) To reduce to a minimum the problems caused by risk situations and/or impairment, by preventing side effects from appearing or growing any worse;

(c) To facilitate the development of parenting skills;

(d) To help optimize conditions for integration;

(e) To boost research and action.

261. **Social and educational support centres:** These aim to support children and young people aged between 6 and 18 who have special educational needs and who, for lack of means, cannot be integrated in ordinary schools. The centres' activities are very varied and focus particularly on educational aspects, including individual curricula. By joint order No. 238/96, of 14 November 1996, of the Ministry of Education and the Ministry of Solidarity and

Social Security, a working group has now been set up to prepare proposals for transferring to the Ministry of Education responsibility for the special education activities carried out by the private social welfare institutions, a draft ministerial order to this effect having been submitted by the Department of Social Action.

262. **Support units:** These are intended to take care of children and young people aged between 6 and 16 (or 18) who have to attend particular support institutions far from their usual place of residence or who need, for compelling family reasons, a temporary change of regime. They tend to be small-scale units that are part of the community. The units are provided by private social welfare institutions and cooperatives, with technical and financial support from the Directorate-General for Social Action on the basis of cooperation agreements.

263. **Hostels:** These provide lodgings for young people and adults over the age of 16 who have disabilities and who are unable, either temporarily or definitively, to live in their usual home. They focus on the individual needs of the young adults. They tend to be small-scale units that are part of the community.

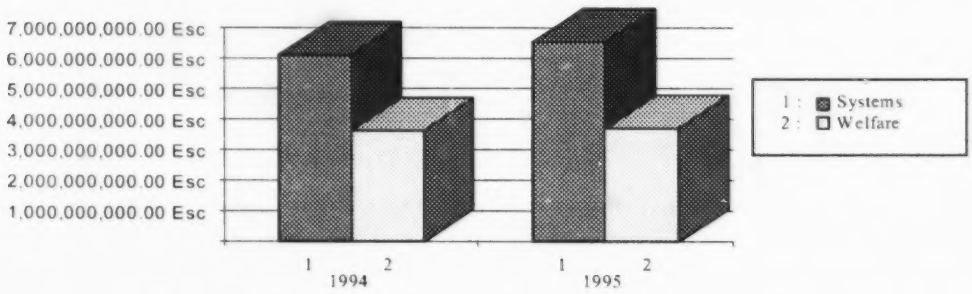
264. For young disabled people over age 16, the Ministry of Solidarity and Social Security proposes two options:

(a) Occupational activity centres, which help young adults with serious disabilities who are unable to enter the labour market. These centres, which foster the individual's ability to perform socially useful tasks and develop vocational skills, cooperate with sheltered workshops;

(b) The Benfica occupational support centre (CALB), an occupational training school for disabled young people, which aims to integrate them in the labour market.

265. The three figures below show the amounts spent by welfare and social security systems (in 1994 and 1995) on the provision of support to disabled children and young people.

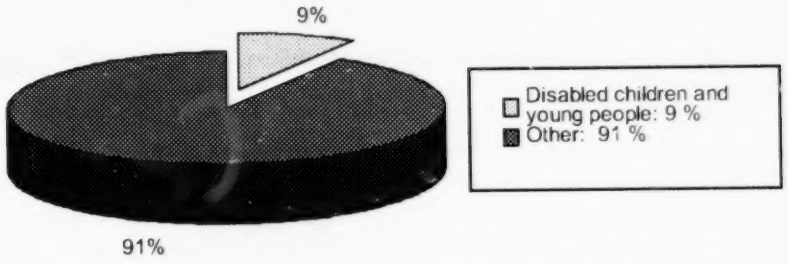
Figure C



Source: Directorate-General for Social Action, based on data from the Financial Management Institute.

As percentages, these amounts are as follows:

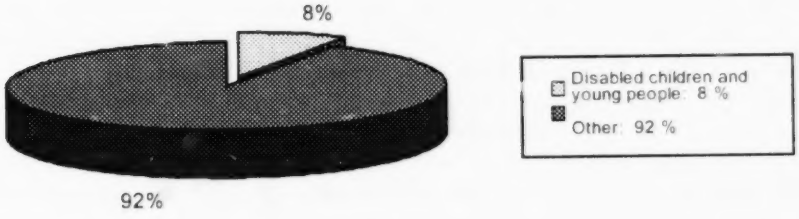
Figure D



100 % = 40,807,205,112.00 Esc. in 1994.

Source: Ibid.

Figure E



100 % = 45,856,941,475.00 Esc. in 1995.

Source: Ibid.

266. The table below shows the percentage of disabled persons who benefit, or have benefited, from medical or functional rehabilitation, special education, vocational training and rehabilitation, integration in the labour market, social integration, etc.

Table 31

Disability	Age group			
	0-2 years	3-5 years	6-15 years	16-24 years
Visual	51.4	50.2	44.1	31.2
Hearing	0.0	52.6	58.0	44.2
Speech	52.2	59.7	71.3	57.8
Other forms of communication	29.9	48.1	57.0	57.5
Personal care	71.4	78.2	62.6	64.9
Locomotion	68.8	59.4	64.5	88.2
Daily tasks	83.9	46.9	58.8	62.0

Disability	Age group			
	0-2 years	3-5 years	6-15 years	16-24 years
Facing situations	39.2	30.3	38.2	35.8
Behavioural	0.0	52.4	49.9	51.5

Source: Department of Rehabilitation, *National Survey of Impairments, Disabilities and Handicaps*, 1996.

267. **Specific projects and actions relating to impairment:** Some progress has been made in prevention and rehabilitation, particularly with regard to disabled children and young people, in relation to the development of specific new activities such as the early intervention programmes, provision of home help, development and rehabilitation consultations and monitoring consultations, and rehabilitation training programmes for technicians. These activities are also carried out at the regional level.

268. Given the increase in the number of people, including children and young people, who are suffering from chronic illnesses, and the growing demand for quality care and support for disabled persons, the Ministry of Health team responsible for children's and young people's health sees it as crucial to reorganize services so as to be able to provide, at the least cost, a high level of care from both a scientific and an ethical and human viewpoint.

B. Health and medical services (art. 24)

Paragraph 93 of the 1996 guidelines

269. The following paragraphs provide information on measures adopted to guarantee children's right to life and to the enjoyment of health care, ensuring their survival and development to the maximum extent possible. Promoting the health of children and young people is one of the priorities of the Ministry of Health. In addition to the Division of Mother and Child and Adolescent Health, a National Commission on Women's and Children's Health has been established in the Department of Health to assist the Minister of Health. The current health system is organized in accordance with the Constitution and all existing legislation, including the basic law on health, the Department of Health Act, the Regional and Subregional Health Administrations Act and the Medical Profession Act, and in compliance with the principles established therein.

270. In a document entitled "Mission and leadership", prepared in March 1997, the Department of Health defines its functions as follows:

(a) To promote Portuguese people's health by improving their physical, mental and social well-being in order to provide a better quality of life;

(b) To develop a citizen-centred health system by promoting coordinated approaches that will contribute to the coherent structuring of the health system and its main actors;

(c) To influence the integrated development of the health system by establishing specific mechanisms to promote proactive behaviour and alternative scenarios, which may be able to influence political decision-making and the implementation of appropriate strategies and standards in developing the national health service;

(d) To take a lead at the national level with regard to health-related values, ideas, events and forms of action.

271. The National Commission on Women's and Children's Health is the successor to the National Commission on Child Health, which was created by order of the Secretary of State for Health on 7 September 1992 and, since January 1994, has reported directly to the Minister of Health. The Commission's task is to assist the Minister in all areas relating to women's, children's and adolescents' health, and particularly to establish and propose priority operational programmes, to promote the coordination of the various activities of the Ministry of Health, to monitor their development and evaluate them, and to promote cross-disciplinary coordination between the services of the various ministries, non-governmental organizations, etc. The Commission is also expected to propose specific measures and monitor and evaluate their implementation. It acts as a driving force and catalyst and is intended to motivate health professionals and services, through integrated operational programmes, to become agents of change and thereby exert a decisive influence in the improvement of health and the promotion of well-being among Portuguese children and young people.

272. The following factors are of key importance in developing an appropriate, effective health policy: political will, the level of participation of those involved, the extent of responsibilities, the implementation of measures and, lastly, changes in attitude and behaviour. To date, priorities have been established with regard to children's health needs and a number of courses of action have been proposed that could be developed within operational programmes; the priorities relate to the various levels at which care is to be provided (primary health care and hospital care), postgraduate training for doctors, nurses and other health technicians, and medical research.

273. The following are some of the key ideas making up the framework for action regarding children's and young people's health:

(a) Setting the paediatric age limit at 18;

(b) Recognition of the competence of community paediatricians; training and placement of community paediatricians in health centres;

(c) Establishment of hospital paediatric services and departments for the care of children and young people, including those that are currently being attended to in adult services, and recognition of children's and young people's right to enjoy an atmosphere responsive to their needs, particularly when in hospital;

(d) Improving the working conditions, and thereby the performance, of specialist paediatricians, particularly those working in intensive care sectors;

(e) Reorganizing health services dealing with children and young people, particularly emergency reception and certain sectors of hospital and surgical paediatric services;

(f) Promoting coordination between the various levels of health care and between health services and related services such as education, social security and local authorities;

(g) Improving communications and the dissemination of information;

(h) Extension of the experiment in maternal and neonatal coordinating groups to child and juvenile health;

(i) Organizing nursing care services for children and adolescents, with a particular emphasis on training and on development of a special nursing field of paediatrics and child health, by placing specialist nurses in health centres and community health teams;

(j) Establishment and continuity of care for all children with disabilities or chronic illnesses, including through the regional and district development centres and through nursing liaison projects that will make the best use of resources and optimize the response to the health needs of children with disabilities or chronic illnesses, thereby promoting their well-being and quality of life;

(k) Provision of resources for clinical genetics that will make it possible to meet the enormous challenges arising in this area of health;

(l) Development of a national programme for the prevention of accidents and the promotion of child and youth safety, focusing on training, action and research, using a broad multidisciplinary approach with wide community participation, in order to create a safe, healthy environment;

(m) In-service training for health professionals specializing in adolescent health and organization of reception services for this age group, with links to paediatric services in the hospital sector and to the health centres' health teams in the primary health care sector;

(n) Closer ties between the child health and paediatric sector and mental health care for children and young people;

(o) Development of a national oral and dental health programme which is coordinated by the Department of Health and has as its aim the extension throughout the country of useful experience in this area already gathered in a number of municipalities;

(p) Recognition of the importance of research into child health and paediatrics, and support for practical research projects.

274. With regard to maternal health, the following broad action has been taken:

(a) Promotion of pre-conception advice and provision of appropriate antenatal care for pregnant women;

(b) Maintaining the quality of supplementary diagnostic examinations, in particular ultrasound scans, and adequate transport for pregnant women in labour or emergency situations;

(c) Provision of antenatal tests for all pregnant women aged 35 or over;

(d) Promotion of responsible sexual behaviour in order to reduce the number of unwanted adolescent pregnancies, particularly in girls aged under 16;

(e) Strengthening of general and specialist perinatal hospital care, in particular by providing adequate technical and human resources;

(f) Research into the causes of maternal and perinatal mortality.

Paragraph 94 of the 1996 guidelines

275. Portugal's health system is currently undergoing a number of changes. Essential background documents have been issued by the Ministry of Health, and the Department of Health, which describe the changes to be made in the system in order:

(a) To focus health policies on the individual and the citizen;

(b) To reorganize the administration of health care in order to meet the challenges and needs more effectively;

(c) To optimize resources and reduce waste;

(d) To evaluate the impact of actions in terms of health gains;

(e) To analyse the system, taking account of its various components, and in particular care providers, the national health service, subsystems and private services;

(f) To increase and improve the ongoing provision of care and to encourage users to seek such care;

(g) To identify priorities.

Health system support structures

276. The structures that deliver health care to children and young people are central hospitals, district hospitals, level 1 hospitals (health centres with hospital beds), private hospital structures, health centres, private doctors' surgeries, health subsystems and, lastly, other structures such as trusts, associations, etc.

277. In hospitals, there are paediatric services that specialize in reception of children and, more recently, of young people also (order 24/87, published on 2 January 1988). The central hospitals are making efforts to develop certain areas of paediatrics, including surgery, nephrology, gastroenterology, immunology-allergology, endocrinology, neuropaediatrics,

developmental paediatrics, genetics, oncology, haematology, metabolic disorders, traumatology and intensive care, infectious diseases, pneumology, etc. Despite the lack of any specific training for the effective application of order 24/87 of 2 January 1988, the situation is improving, particularly in the district hospitals. It is to be hoped that that will also be the case in the central hospitals, particularly university hospitals, in the near future.

Table 32

Paediatric services

	Central hospitals	District hospitals	Level 1 hospitals
North	6	10	4
Centre	1	12	3
Lisbon/Tagus Valley	6	10	0
Alentejo	0	3	1
Algarve	0	2	0
Azores Autonomous Region	0	4	0
Madeira Autonomous Regions	1	0	0
Total	14	41	8

Source: Department of Health, Ministry of Health.

Health care providers

278. For primary health care, Portugal's national health service relies on general practitioners and family doctors. This service is complemented at the State level by a number of paediatricians working in health centres in the major towns. There are also consulting paediatricians who provide support for primary health care doctors, and a significant amount of work is done by private paediatricians. Some subsystems also offer a consulting service in the area of primary health care, and this is generally provided by paediatricians.

279. In hospitals, children and young people are treated by paediatricians (in the paediatric services), but also by many other doctors specializing in areas of "adult medicine".

Table 33

Number of paediatricians in hospital paediatric services (1995)

	Central hospitals	District hospitals	Level 1 hospitals
North	180	104	18
Centre	53	79	3
Lisbon/Tagus Valley	333	115	0
Alentejo	0	29	1
Algarve	0	15	0
Azores Autonomous Region	0	3	0
Madeira Autonomous Regions	18	0	0
Total	584	345	32

Source: Human Resources Department, Ministry of Health.

280. The nurses who provide care for children and young people are nearly all generalists, although it is possible to specialize in child health and paediatric nursing. Permanent placement of nurses in paediatric services allows them to acquire additional competence in treating children and young people.

281. As regards other health professionals, senior staff in some hospitals and health centres include psychologists, child psychiatrists and social service experts, educators, physiotherapists and speech, occupational and other therapists. There are still not enough of them to meet the demand. A more efficient approach is currently being tried, however, involving a broader use of resources at the health-centre level.

Hospital care

282. Conditions in Portugal still do not allow all children to receive hospital care in what might be called a "paediatric environment". In particular, in the surgical and orthopaedic departments, children are placed in adult wards, with all the attendant psychological problems. Most hospitals are also still not in a position to receive adolescents in a way that takes account of the particular characteristics of that age group. The law allows parents or their legal representatives to accompany a child in hospital and there has been an enormous effort to "humanize" hospital services.

Table 34

Number of beds in paediatric services (1995)

	Central hospitals	District hospitals	Level 1 hospitals
North	181	234	45
Centre	100	314	37
Lisbon/Tagus Valley	192	212	0
Alentejo	0	59	3
Algarve	0	40	0
Azores Autonomous Region	0	55	0
Madeira Autonomous Regions	65	0	0
Total	538	914	85

Source: Department of Health, Ministry of Health.

283. A Department of Health study has shown that, in paediatric services only, some 40,000 children under the age of 10 (excluding the year of birth) are hospitalized every year, and that nearly a quarter of the cases involve repeated hospitalization for the same children (recurring acute illnesses or aggravation of chronic illnesses).

284. There is still a large number of children who are hospitalized in non-paediatric wards (probably more than 50 per cent of the total). Adolescents are still placed in "adult" wards (probably more than 60 per cent in the 10-14 age group and more than 90 per cent in the 15-19 age group).

285. A high proportion of hospitalizations (nearly 80 per cent) still occurs through the emergency service (i.e., are unplanned), which runs counter to the principles that should govern the programming of hospital work.

286. The most common reasons for hospitalization are injuries and lesions of various kinds, including those caused in accidents, followed by surgical interventions (including ear, nose and throat), respiratory conditions (including asthma), infectious diseases and gastroenterological conditions.

287. A number of special interest areas and specialized paediatric fields have developed within the various hospital services and in terms of material and human resources, particularly in intensive care. The concept and practice of the day hospital is also being developed.

Outpatient consultations

288. As regards hospital consultations for children and young people, the following can be said:

(a) The exact number of outpatient consultations by children and young people is not known (although it is known that in 1994 there were 333,289 specialist paediatric consultations, of which a quarter were initial consultations); the reasons for consultation are also not known. However, as shown by a number of studies, outpatient consultations, unlike emergency consultations, are becoming more frequent, either on the advice of the attending doctor or by decision of families themselves;

(b) The number of paediatric outpatient consultations has increased sharply in recent years, particularly within the various paediatric specialized fields both in the district hospitals and in highly specialized areas in the central hospitals;

(c) A national "charter" is currently being drawn up, establishing the standards that should govern the various services, including those administered by the "adult" services (orthopaedics, ear, nose and throat, ophthalmology, dentistry, physical medicine, etc.). The charter is intended to cover medicine practised in the subsystems and in the private sector, and aims to create conditions under which it can be practised properly.

Emergency services

289. There is a great demand for emergency services in Portugal. The primary health-care services (health centres, subsystems and private doctors) are inadequate and inspire little confidence in many parents, who turn instead to the emergency services. Only 10 per cent of the cases taken by hospital emergency services warrant emergency treatment in clinical terms.

290. This excessive demand means that the emergency services are overstretched, to the detriment of both users and staff. The facts are as follows:

(a) Sudden illness accounts for some two thirds of cases and accidents and accidental injury for around one third;

(b) Only 4 per cent of emergency hospital consultations result in hospitalization;

(c) Emergency consultations are twice as frequent as other hospital consultations;

(d) One third of children go more than once a year to an emergency service.

291. Any reorganization of emergency services will require a coordinated, integrated programme at all levels of care and throughout the public and private systems and the subsystems, and an enhancement of parents' skills in coping with illness. A national commission for the restructuring of emergency services has been established and has prepared a number of proposals, including a chapter devoted entirely to children and adolescents.

Paragraph 95 of the 1996 guidelines

Births

292. In 1996, there were 110,261 live births in Portugal. Although this figure is slightly higher than those of previous years, it is still not possible to state that the steady, decades-long downward trend has been reversed. In fact, taking into account the legalization of a large number of African immigrant families and the total number of women of reproductive age, this slight increase is of no significance.

Table 35

Birth rate	
1981-1990	13.3
1991-1995	11.6

Source: National Statistical Institute and Department of Health.

Table 36

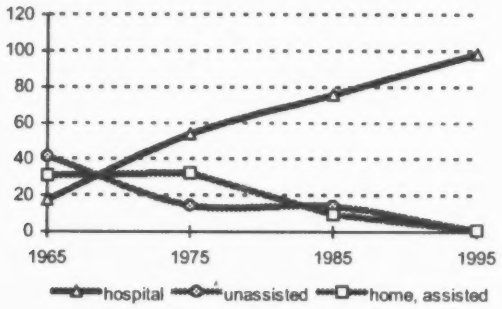
Births by region

Region	1992	1996
North	39 807	37 878
Centre	25 137	23 985
Lisbon/Tagus Valley	34 721	34 280
Alentejo	4 319	3 835
Algarve	3 851	3 690
Azores Autonomous Region	3 673	3 554
Madeira Autonomous Region	3 406	3 021
Total	114 924	110 261

Source: Ibid.

293. Hospital births (both public and private) have fortunately become the rule and, given all that that implies, this is one of the most important indicators of child health. In Portugal today, 99 per cent of children are born in hospital and 6 per cent of these deliveries take place in private institutions. Figure F shows the trend in hospital and unassisted deliveries. The proportion of hospital births increased from one quarter of the total in 1965 to nearly 100 per cent in 1995, while the proportion of unassisted births (without help from a doctor, a nurse or a midwife) declined from 40 per cent to practically zero.

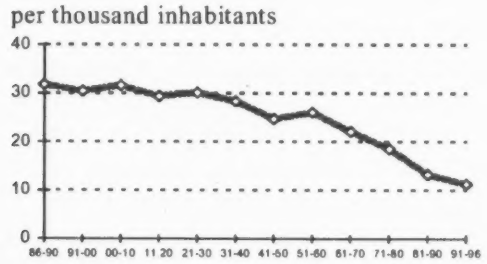
Figure F



Source: National Statistical Institute: *Statistical Yearbook and Demographic Statistics.*

294. As can be seen from figure G, Portugal's birth rate fell markedly between 1886 and 1996.

Figure G



Source: National Statistical Institute: *Statistical Yearbook and Demographic Statistics.*

The birth rate remained more or less stable until the period before the Second World War, when it declined; although it recovered slightly during the 1950s, it has since fallen steadily and the current rate is around one third of the rate 100 years ago. Of the European Union countries, only Germany, Greece, Italy and Spain have a lower birth rate than Portugal (Eurostat 1995).

Family

295. The trend as regards the child and adolescent population is slightly downwards. The 0-9 and 10-19 age groups are currently each the same size as the over-65 age group. Taken together, these two youngest age groups account for more than one third of Portugal's population. Overall, the country is young, but it is ageing, with marked imbalances at the district level.

296. Families are becoming smaller and smaller as a direct result of Portugal's falling birth rate. In 1995, more than half of all newborns were first children and around one third were second children. Analysis of the available figures shows a greater decrease in the numbers of mothers aged 35 and over than in the numbers of adolescent mothers and suggests that family planning measures initially had a greater impact on older age groups and only more recently on younger groups. Also in 1995, the number of deliveries recorded for girls aged up to 19 was 7,740, while, significantly, the total number of adolescent fathers was 1,935. A case-by-case analysis - the sort of exercise now being conducted in some areas - will provide a more scientific picture of the situation of adolescent pregnancy and, therefore, a better indication of the problems that arise and appropriate solutions to apply.

297. This analysis shows that, in 1995:

(a) Both parents were under 20 in 1,316 cases;

(b) There were 366 deliveries involving adolescents aged under 16;

(c) The total number of births to women aged 40 or over was 1,930;

(d) The statistics for the last 10 years show a decline in percentage terms of cases of adolescent girls who have more than one full-term pregnancy:

(i) In 90 per cent of cases, the delivery was the first child;

(ii) In 10 per cent of cases, it was the second child;

(iii) The number of cases of adolescents delivering their third child has fallen from 5 per cent to 1.5 per cent in the last 20 years.

298. All the available data seem to confirm that, despite certain identified and recognized gaps, the family planning measures are highly effective. The number of pregnant adolescents is not known, but since there is no evidence of an increase in voluntary termination of pregnancy in this age group or of a drop in the average age when sexual activity begins, it is likely that the decline in the number of births is directly linked to the use of contraceptive methods.

299. As regards Portuguese families, the following may be said:

(a) An understanding of the family structure and other related data is of fundamental importance, given the influence of the family on children's and young people's well-being and quality of life, in physical, psychological, moral, social and cultural terms;

(b) According to data from the National Statistical Institute, 65,776 marriages took place in Portugal in 1995, of which 161 were between blood relatives;

(c) These marriages involved 8,356 children from previous unions, 35.8 per cent of whom were children of the couple getting married, although there were significant differences from region to region;

(d) In nearly half these families, the children live with the mother or the father alone, with no other adults;

(e) Less than half the families (some 40 per cent) have one child or more; most of them consist of two adults (plus the child);

(f) There has also been a significant decline in the number of large families, even in rural areas: barely 38 per cent of families with children include any other person apart from the parent or parents;

(g) Over the last 100 years the percentage of children born out of wedlock (previously described as "illegitimate" in the statistics) initially decreased to virtually negligible levels in the 1910s and 1920s and remained stable until the 1980s, when a gradual but significant increase was observed;

(h) The increase in the number of single-parent families varies from region to region: nearly 3.5 per cent of families with children are single-parent families, that parent being the mother in the vast majority (91 per cent) of cases. There are also regional differences with regard to single-parent families;

(i) There has also been an increase in the number of twin households, reconstituted families and other family structures: for example, in 1991, there were 18,034 families where children aged under 15 were living only with one or two grandparents;

(j) According to data from the latest census, 1,235,948 families (of various kinds) had at least one child, around one fifth (21.5 per cent) of the child population (aged under 15) lived in towns of more than 20,000 inhabitants and two fifths (42.6 per cent) lived in small villages of less than 1,000 inhabitants, although this varied from region to region;

(k) A worrying problem is the increasing social isolation of families (particularly in peri-urban areas), which is frequently associated with situations of social disadvantage: according to the latest census, in 1991 there were 8,616 children living in dwellings described as "shacks", particularly in the vicinity of large towns;

(l) The fact that parents have less and less experience to draw on (coming from smaller or nuclear families separated from their social and cultural origins) may also be partly responsible for increased tensions;

(m) Parents have become more vulnerable in their role: they have problems of availability and their life is more disorganized, which produces stress, yet at the same time society often demands that they should be "perfect parents", which produces feelings of guilt and anxiety;

(n) The level of education of parents of young children has increased sharply, and one particularly important point that emerges from the 1995 data is that both parents often have the same educational level;

(o) Families' expectations or demands with regard to health are different now, as a result of changes in social standards and the increasing recognition that parents are partners in health and essential to the process of negotiating attitudes, intentions and behaviours; however, parents' rights and responsibilities have still not been fully established.

Adolescents

300. The following can be said with regard to adolescents:

(a) Portuguese adolescents are on the whole healthy;

(b) There is a growing problem of adolescents with chronic illnesses;

(c) The biggest health problem for this age group is caused by accidents and accident-related injuries, which are responsible for more than half the deaths of adolescents;

(d) The use of harmful substances and the choice of high-risk life-styles, involving experimentation and even suicidal or para-suicidal behaviours have led to an increase in certain pathologies and require innovative approaches: a number of such approaches are being developed and implemented;

(e) The health services, and in particular hospital services, are ill-prepared for dealing with adolescents.

301. Specific programmes are currently being developed to study and highlight the factors that protect young Portuguese people and contribute to their resilience, so that these factors are better understood and protected, with a view to implementing them within health units, in a multidisciplinary perspective and in cooperation with civil society and in conformity with the priorities established in the Basic Health Act.

Infant and child mortality

302. Infant mortality, i.e., mortality during the first year of life, has declined steadily since records began in Portugal. The same applies to mortality for other age groups of children and young people and to maternal mortality. The decline observed in Portugal over the last 20 years is genuinely significant. Deaths from non-preventable infectious diseases have also declined, in particular pneumonia and acute gastro-enteritis.

303. Disaggregation of child mortality rates by level of mother's education and by father's occupation shows that less educated mothers are more disadvantaged in relation to the total sample of mothers and fathers who have had children during these years (the rate is 2.9 for mothers with higher education as compared with 24.1 for illiterate mothers or mothers without primary education); the same applies to fathers with less specialized occupations. Improvements in living standards - housing, nutrition, hygiene and education - have been a key factor in the decline in infant mortality rates.

304. In Portugal, as in most Western countries, sudden infant death syndrome and accidents were practically the sole causes of death during this period.

305. In 1995, life expectancy for age groups between 0 and 19 was as follows:

Table 37

Age	Life expectancy (male and female
0	75.07
1-4	74.65
5-9	70.80
10-14	65.92
15-19	61.02

Source: Health Department, Ministry of Health.

Caesareans accounted for 24.3 per cent of all births. Some 6 per cent of babies born in 1995, or 6,446, were low birth weight infants (weight at birth less than 2.5 kg). The proportion of premature births (less than 37 weeks) was 6.4 per cent in 1995, or 6,794 babies.

Monitoring of child and youth health

306. For prevention purposes, children's and young people's health is monitored, first, in the public health system, chiefly in health centres (by family doctors or paediatricians), second, in the various health subsystems and, third, in the private system.

307. Portugal has a widely-implemented child and youth health monitoring programme, achieved through a combination of scientific rigour and widespread endorsement, which has the following features:

(a) New approach to monitoring whereby the vaccination schedule is adjusted to the "key age" concept, to ensure more thorough coverage of the child population;

(b) Discussion at each consultation of instructions and guidelines regarding preventive care and the medical procedures to be carried out at each key age;

(c) Gaps in coverage as currently estimated: it is not known, for example, how many children receive regular care in the private health system and in the subsystems, how many use a combination of systems and how many receive no attention at all;

(d) Great shortage of nurses and other specialists (psychologists, physiotherapists, occupational therapists, speech therapists, etc.) in primary health care;

(e) Problem of lack of monitoring, connected with problems of accessibility: this is more severe in peri-urban areas and rural areas in the interior of the country.

The programme includes a number of scientifically proven measures for the early detection of illness at certain key ages. These have been widely approved and meet internationally accepted criteria.

Health booklet

308. The child and youth health booklet is an important means of communicating and sharing medical information. It is given to parents when the child is born and contains advice and information on the main features of children's and young people's development and growth and on some of the problems most frequently encountered. It also contains a list of preventive measures to be taken during the key ages and a list of things to be done at each health check, in accordance with the framework programme of action of the Department of Health.

309. Under Department of Health regulations, the health booklet must be filled in and kept up to date and its use is governed by certain basic principles: first, that the information belongs to the child or young person and the family, i.e. it is they who own the information; and, second, that information needs to be shared in order to improve continuity of care, to avoid duplication of procedures and unnecessary examinations, and to provide precise, appropriate and easily accessible information.

310. Studies show that the health booklet is still somewhat underused by health professionals, particularly in hospitals. More and more effort is being made, however, to complete it correctly. According to information from various studies, the booklet is given to 99 per cent of parents, of whom two thirds take it with them to consultations and half take it in cases of emergency, while 60 per cent of professionals in primary health care and 16 per cent in emergency services ask to see the booklet; the number of professionals who complete it satisfactorily is probably lower.

Vaccination

311. Portugal has a national vaccination programme and current data show that the vaccination rate is around 95 per cent. Most children in Portugal are vaccinated properly and at the right time, and as a result the incidence of diseases such as measles, infantile paralysis, diphtheria, etc. is declining rapidly. The national vaccination programme, now under review by a working group, includes BCG and vaccinations against diphtheria, tetanus and whooping cough, polio and measles-mumps-rubella. Besides these, other, new vaccinations are also available, including hepatitis B and *haemophilus influenzae*.

312. Vaccination must, however, be provided for the entire community, and particularly for groups at risk (socially marginalized, ethnic minorities, etc.), where vaccination rates are markedly lower; innovative strategies in that regard are currently being developed.

313. Deaths from preventable diseases have declined significantly, despite the constant threat that any drop in the vaccination rate may cause an epidemic such as the 1989-1990 measles outbreak, which caused a number of deaths.

314. With regard to non-preventable diseases, the following can be noted:

(a) Tuberculosis among children and young people has not declined as it had been hoped;

(b) AIDS and other emerging diseases, such as sexually transmitted diseases, present new challenges because they require different strategies (targeting behaviour patterns);

(c) Improper use of antibiotics with children is a worrying problem.

Oral and dental health

315. The national oral and dental health programme is directed jointly by the National Commission on Women's and Children's Health and the Department of Health. Dental caries is the most common chronic disorder among Portugal's children and young people. According to studies carried out in Portugal at the beginning of the 1990s, caries attacks permanent teeth at the rate of one tooth per child per year, which means around 600,000 new cases in the primary school population (aged 6-9) and an average of 4 caries-affected teeth per person by the age of 10.

316. The objective of the programme, which has already been tested on children and adolescents and found to work well, is for each person to reach the age of 18 equipped with appropriate knowledge and behaviour and free of caries, or at least with fewer caries-affected teeth and for those teeth to have been treated. Pilot studies carried out in Portugal show that implementation of the programme will make it possible to reduce the prevalence and incidence of caries by some 85 per cent in all the groups concerned.

317. Other tested and proven programmes cover such areas as oral hygiene (washing, brushing, flossing), use of fluoride (mouthwash, gargles), sealing of dental cracks and promotion of measures that help to rationalize consumption of sugary foods.

Nutrition

318. There has been an increase in breastfeeding in recent years. According to a Department of Health study, all mothers understand the advantages of breastfeeding and try to practise it. When babies leave the maternity wards, 95 per cent of them are being either exclusively or partly breastfed. This level starts to drop after 15 days of life, for technical reasons or because of

insecurity, anxiety or stress. There are some inter-agency breastfeeding promotion programmes, notably the "Baby-friendly hospitals" programme, which essentially focus on professional attitudes and practices and on support for young mothers during the first weeks.

319. Recent years have seen a significant decrease in instances of nutritional deficiency among children. It is now uncommon for malnutrition to be a cause of hospitalization, although it persists among certain socially and economically disadvantaged groups. Where food quality is concerned, there is a growing trend for children and adolescents to consume high-calorie foods containing excessive sugar and fat between meals and to avoid vegetables and fruits. A detailed survey should be made of the healthy elements that still exist in Portuguese families' diet and these should be promoted.

Accidents, injuries and accidental injuries

320. Accidents, injuries and accidental injuries are the most frequent cause of death, illness, hospitalization, use of emergency services, and temporary and permanent disability among children and young people and therefore constitute one of the problems with the highest social and economic cost. Accordingly, the Ministry of Health has launched a number of prevention campaigns in this area:

(a) This carnage occurs more because children's and families' natural behaviour and psychosocial tendencies are not properly suited to their environment, rather than because of any untoward or unexpected behaviour by children or young people;

(b) Portugal has an enormous body of legislation, but some of its laws are not well known or are inadequately implemented;

(c) Reception of accident victims has improved noticeably, particularly where evacuation, first aid and health services - especially intensive care - are concerned, all of which helps to reduce the mortality rate;

(d) The agencies and institutions that deal with accidents and related injuries are still not sufficiently coordinated.

321. Following a proposal by the National Commission for Women's and Children's Health, a national programme for the prevention of accidents and accidental injury is being developed by the Department of Health, in conjunction with Prevenção Rodoviaria Portuguesa (PRP) - the Portuguese road safety organization, the Consumer Institute, the Association for the Promotion of Child Safety (APSI) and other State and civil society institutions, including consumer associations. The aim is to mobilize the health sector and health professionals by drawing their attention to the problem. The Programme aims to promote safety for all citizens, using a multidisciplinary approach to accidents and accidental injury, involving the ministries of health, education, internal affairs and the environment, the police and local authorities, the Consumer Institute, PRP, etc.

Lifestyles, sport and television

322. Studies of the major public health problems show that most of them have their roots in particular habits and lifestyles and that changes in attitudes and behaviour are needed if such problems are to be prevented or solved. This is only possible, however, through negotiation and by offering alternatives and, in the case of children and young people, by establishing healthy habits and life choices. One rather worrying problem is the increase in violence among children and young people, not only as victims, but also as perpetrators of violence.

323. Regular sporting activity among children and young people is still well below the desirable level, particularly among adolescents. There has been a change in young people's sporting preferences, with a shift towards sports that allow them to push their bodies to the limit and bring them into close contact with nature. They must be encouraged to take up sport and physical exercise, including walking. Access to sports centres and classes of various kinds must be improved and facilitated. There is an urgent need for a qualitative and quantitative evaluation of physical education classes.

324. Children and adolescents as a group spend an average of three-four hours a day in front of the television. That is the conclusion of a 1995 doctoral thesis, entitled "Television in children's daily life", by Professor Manuel Pinto of the University of Minho Social Sciences Institute. The situation varies, however, depending on age and school timetable. At the same time, the study suggests that a significant portion of time is spent watching television not because of any kind of generalized dependence, but because of the lack of attractive alternative pastimes within families and local communities, particularly physical exercise, reading, leisure pursuits and creative activities.

Harmful substances

325. The consumption of alcohol and drugs is a growing problem among adolescents. This is a major public health problem and, in the case of illegal drugs, a social and political problem as well. The following figures (dependency percentages) emerge from a 1995 study carried out by the European School Survey Project on Alcohol and Other Drugs (ESPAD):

- Medicines 14.8
- Drugs 8.1
- Alcohol 79.1
- Tobacco 50.3

The solution to the problem, in the health context, lies in investment to boost young people's self-esteem, self-image and powers of resistance, and in offering alternative leisure pursuits and strengthening the protection factors in the various groups (family, friends, society at large), including by deciding on a life plan and sticking to it.

Paragraph 96 of the 1996 guidelines

HIV/AIDS

326. The national anti-AIDS strategy is coordinated on behalf of the Ministry of Health by the National AIDS Commission, established by Ministry of Health order No. 4/92, published in the official gazette No. 7/92 of 3 April 1992. The Commission's task is to develop a national anti-AIDS programme, coordinate its implementation in accordance with its basic principles and evaluate the results. The Commission is also expected to take part in the World Health Organization (WHO) epidemiological surveillance programme, thereby committing itself to epidemiological surveillance of notified cases of AIDS. Because of the international aspect of the HIV/AIDS pandemic, the Commission also participates in and promotes research and intervention activities, in collaboration with UNAIDS, the Commission of the European Communities, the Council of Europe and other international bodies.

327. The national anti-AIDS programme incorporates a range of health priorities that form part of Portugal's current health policy, in accordance with the general guidelines issued by UNAIDS and the European Union, and taking account of Portugal's specific circumstances and the organization and institutional structure of its health services, as well as the overall context of the AIDS problem. The approach basically involves reaching consensus, to the extent possible and desirable, on the content of the programmes and the messages to be communicated, through training and the provision of educational support and other support systems.

328. The Commission attempts to promote healthy lifestyles and initiate discussion of sexual and emotional relationships, with all the sensitivity required by topics of this nature. It is also in favour of decentralizing the activities to be developed, using a cross-sectoral and multidisciplinary approach, by providing the conditions and means for the various agencies to play an effective part in those activities. The resources which the Government has allocated to combating AIDS have been optimized and prioritized and their use is strictly controlled.

329. It is not possible to determine the exact number of HIV-positive individuals, since it is difficult to organize studies of the prevalence and incidence of HIV/AIDS. All estimates therefore include a wide margin of error. Notified cases of AIDS represent all those infected between 10 and 12 years ago, i.e., between 1985 and 1987. In Portugal, cases of AIDS are notified to the centre for the epidemiological surveillance of communicable diseases at the Dr. Ricardo Jorge National Health Institute, with the help and support of the National AIDS Commission.

330. The increase in the number of cases notified to the centre is due chiefly to the number of cases notified by drug addicts who became infected in 1985-1987. A focused risk-reduction policy has been adopted, and the percentage of new HIV-positive cases has begun to decline: 17 per cent in 1993, 15 per cent in 1994 and 9 per cent in 1995.

331. The available indicators on the worst affected population group - intravenous drug users - also show a decrease in the number of HIV infections. The Centre's national syringe-exchange programme - "Say no to used syringes" - launched and maintained in collaboration with the National Association of Pharmacies, is the only one of its kind in Europe and has greatly helped to reduce the number of cases detected.

332. Studies of cases where HIV/AIDS has been transmitted by other means - heterosexual, bisexual, homosexual, in utero and by blood transfusion - have shown that the infection rate is coming under control in these cases as well. The same applies to paediatric AIDS, where there has been a noticeable decline in the number of cases notified. Information campaigns and preventive measures have sharply reduced the rate of mother-child transmission.

Treatment and management provided in case of HIV infection and AIDS among children and parents, and the coverage ensured nationwide, in urban and rural areas

333. In the area of social assistance, the National AIDS Commission and the services of the Ministry of Solidarity and Social Security, and in particular the Department of Social Action, analyse the cases requiring intervention and support and attempt to resolve them. It is the task of the regional social security centres and their subregional social security services to provide psychological and social support. With regard to social assistance, particularly assistance to the most disadvantaged and marginalized, use of the social welfare services of the regional social security centres expanded by some 50 per cent between 1992 and 1995.

334. In 1995, 941 people were eligible for subsidies, an increase of 63 per cent from 1994. Of those, 523 people aged between 20 and 34 received support for the first time and 72.09 per cent of those cases were related to drug addiction. A proposal has been made to grant regular financial aid instead of the current ad hoc handouts to AIDS sufferers in financial hardship who are not entitled to social security benefits.

335. As regards access to treatment and co-payment for medication, Portugal has adopted all the necessary measures as part of its anti-AIDS campaign and is making every effort to provide the requisite health care, to the extent it is available in Portugal. For example, anti-retrovirus medication is guaranteed free of charge and available to all sufferers.

336. On the basis of the recommendations of the National Commission's Clinical Group, co-payment of 100 per cent is guaranteed for any new medication that comes on to the market, under Ministry of Health order No. 280/96 of 6 September 1996. Tests to determine the viral dose are also free; these are required to establish and monitor new therapies.

337. Health care is a basic component of the anti-AIDS campaign and is therefore given a high priority. An enormous investment is being made in improving and humanizing the care provided by covering the expenditure incurred in the renovation of the various infectious disease services, the continued provision of psychological counselling services, the construction of day hospitals and the establishment of residential and home support services. Big investments are being made in building isolation, negative air pressure and air circulation rooms for tuberculosis sufferers with HIV, in order to eliminate any risk of spreading multiple drug-resistant tuberculosis.

338. In 1995, the total financial contribution by the Social Security Sector was 198,781,600 escudos: 42.7 per cent for food, 31.5 per cent for medication and 13.9 per cent for accommodation. In 1996, there was an increase of 60 per cent in the amounts allocated to this kind of support. In 1995, 152 people received social assistance under cooperation agreements between the social security authorities and the private social welfare institutions.

339. In 1993-1994, the cost per sufferer per year was 400,000 escudos. In 1995, the cost increased to 840,000 escudos per year. In 1996, the cost per sufferer per year increased by 100 per cent. Currently, expenditure per month per sufferer can be up to 1,600,000 escudos. The estimated increase in the cost per sufferer for 1997 is 250 per cent. An amount of 10 billion escudos (around 1.25 per cent of the total Ministry of Health budget) is expected to be spent on monitoring and treatment of HIV/AIDS sufferers alone - nearly 5,700 individuals.

340. These amounts do not include expenditure on social assistance and all the other anti-AIDS projects and initiatives financed by the Ministry of Health. Nor do they include the huge investments in improving and humanizing health care.

Measures adopted to ensure effective protection and assistance to children who are orphans as a result of AIDS

341. The problem of AIDS orphans is closely monitored by the various competent services. Residential and home support projects run by the National AIDS Commission, the SOL association (support for children suffering from AIDS and for their families) and the Solidarity Project of the Santa Casa da Misericórdia in Lisbon, attempt to provide help for children in need of support from outside the family.

342. In the Madeira Autonomous Region, where intervention is also needed, the "Abraço" association (an HIV/AIDS sufferers' support association) is subsidized through an AIDS orphan support programme under which children whose parents have emigrated and die while abroad are sent back to Madeira.

343. The National Commission and the European Forum on HIV/AIDS Children and Families sponsored a European symposium in Portugal in October 1997 on the subject of children's rights and needs in a world with AIDS, which formulated global guidelines for all the European Union countries. The results of a study of the problems and needs of children and families affected by HIV in Portugal, funded by the National Commission and carried out by the University of Lisbon Social Sciences Institute, were presented at the symposium. Representatives of UNAIDS and the Commission of the European Communities also took part.

Campaigns, programmes, strategies and other relevant measures adopted to prevent and combat discriminatory attitudes against children infected by HIV or with AIDS, or whose parents or family members have been infected

344. One aspect of Portugal's anti-AIDS programme is the effort to combat discrimination against any age group; several campaigns have been carried out on this subject. In December 1997, a major national campaign was launched specifically relating to the issue of HIV/AIDS children.

345. In the area of social welfare services, between 1995 and 1996 there was a significant increase in requests for support for children directly or indirectly affected by HIV/AIDS.

Table 38

HIV/AIDS children

Distribution by regional social security centres and subregional social security services and by age group

Regional centre and Subregional service	Age					Total
	0-11 months	1-4 years	5-9 years	10-12 years	13-14 years	
North						
Penafiel	0	1	0	0	0	1
Porto	1	3	0	0	0	4
Subtotal	1	4	0	0	0	5
Centre						
Aveiro	1	2	0	0	0	3
Leiria	0	1	0	0	0	1
Subtotal	1	3	0	0	0	4
Lisbon and Tagus Valley						
Loures	0	1	0	0	0	1
Setúbal	0	2	1	0	0	3
Sintra	0	5	2	0	0	7
Subtotal	0	8	3	0	0	11
Algarve	0	1	0	0	0	1
Subtotal	0	1	0	0	0	1
Total	2	16	3	0	0	21

Source: DGAS, on the basis of data from the regional social security centres.

346. As can be seen from table 38, 76 per cent of the children supported by these services are in the 1-4 age group. Of these, 61.9 per cent live in a nuclear family, 33.3 per cent in an extended family and 4.7 per cent in a foster family. The absence of home care means prolonged stays in hospital for infected and sick children, which has serious consequences for them psychologically and on their families.

347. In addition, the Solidarity Project of the Santa Casa da Misericórdia in Lisbon provides support to 25 HIV/AIDS children, 13 girls and 12 boys. These children receive outpatient treatment or home support, but there are 10 other HIV/AIDS children (5 of them in the San Roque Hospital) and 4 HIV-positive children in Santa Casa da Misericórdia de Lisboa hospitals.

348. The social costs of AIDS are also felt by non-infected children, in that they suffer hardship and their opportunities for development are restricted because, on the one hand, the nuclear family is likely to disappear and, on the other, they are no longer able to remain in an extended family.

349. The measures taken on behalf of AIDS orphans are part of an overall policy relating to children in need of an alternative family environment, i.e., developing forms of social support designed to keep children in the nuclear family or, if that is not possible, in the extended family.

C. Social security and childcare establishments (arts. 26 and 18, para. 3)

Paragraphs 99 and 100 of the 1996 guidelines

350. The Department of Social Security Systems in the Ministry of Solidarity and Social Security is the service which plans and coordinates and provides technical and normative support in social security matters. In the context of the protection provided by the social security schemes, mention may be made of the legislative measures of compensatory financial assistance in respect of the costs incurred by the maintenance and education of the children and young descendants of beneficiaries and those stemming from the need for specific types of pedagogical or therapeutic support in the case of disabilities.

351. Ministerial order No. 54/97 of 22 January 1997 updated the amount of family benefits for which decree laws No. 160/80 of 27 May 1980 and No. 170/80 of 29 May 1980 provided, backdating the start to January 1997. The benefits are as follows: family allowances, breastfeeding bonus, birth and marriage allowance and compensation for funeral expenses (only in the context of decree law No. 170/80 of 29 May 1980), family allowance for children and young people, special education establishment attendance allowance, monthly life annuity. Attention should, however, be drawn to the change in the philosophy behind the allocation of these benefits with the publication of decree law No. 133-B/97 of 30 May 1997, with its implicit reinforcement of social solidarity in adopting selective criteria for the allocation of benefits.

352. The need to enhance the value of family allowances without jeopardizing the financial equilibrium of the social security system has led to the adoption of a policy for rationalizing the benefits system which has led to the unification of the benefits granted during the first year of life. According to the new text, a new benefit has been created in the form of a family allowance for children and young people, which includes family benefits, and breastfeeding, birth and marriage allowances; the respective amounts are adjusted according to family incomes.

353. Family allowances are adjusted according to three grades of income, indexed on the value of the minimum wage guaranteed to workers in general, the highest amount corresponding

to the lowest income grade. This selective criterion does not apply to the other benefits, either in view of their purpose, in the case of compensation for funeral expenses, or because of the nature of the costs in the case of disability benefits.

354. In accordance with decree law No. 133-B/97 of 30 May 1997, the list of benefits is as follows: first, supplementary allowance for disabled children and young people; second, monthly life annuity (only in the context of decree law No. 170/80 of 29 May 1980); and third, third person assistance allowance. This last-mentioned benefit, for which decree law No. 28/89 of 23 January 1989 provides, is intended to offset the cost of a third person to provide permanent assistance to the recipients of a supplementary allowance or a monthly life annuity when they are in a dependent situation.

355. The special education allowance is a family benefit for attending specialized educational establishments, cooperatives and associations (non profit-making establishments) and colleges (profit-making establishments), attending regular kindergartens and also for individual support from specialist teachers and therapists. During the school year 1996/97, support in the form of the special education allowance to children attending specialized educational establishments in cooperatives, associations and colleges was limited to pupils between 15 and 18 years of age and children under 6; the Ministry of Education is currently in the process of gradually applying the principle of free education to pupils of mandatory school age with special educational needs.

356. As regards the special education allowance, including the material aspect which is provided for by decree laws Nos. 160/80 and 170/90 and covered by the regulations contained in regulatory decree No. 14/81 of 7 April 1981, the instruments listed below for the school year 1996/97 were approved with a view to updating the monthly payments for specialized educational establishments and family savings, since these are essential factors in determining allowances for attendance of such establishments, i.e.:

(a) Order No. 140/97 of 26 February 1997, specifying the maximum monthly payments to be made by profit-making specialized colleges of education;

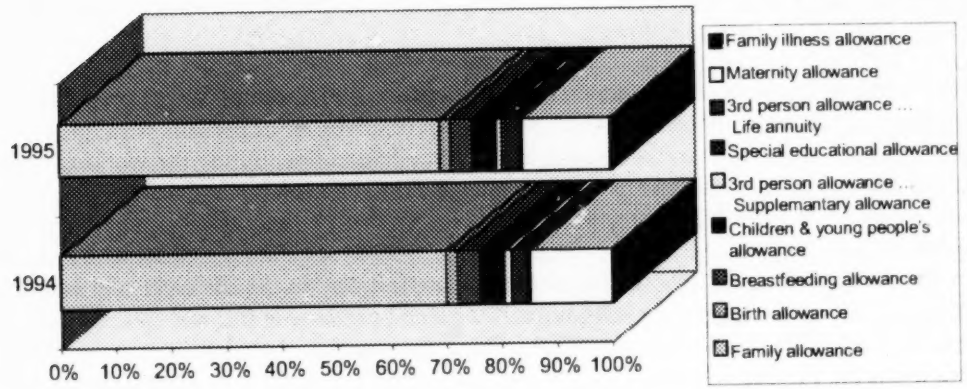
(b) Order No. 141/97 of 26 February 1997, specifying the maximum monthly payments to be made by non profit-making specialized colleges of education;

(c) Order No. 161/97 of 6 March 1997, establishing the family's share to be calculated and deducted from the monthly amount.

357. The supplementary allowance, which was applied independently prior to the publication of the above-mentioned decree, is replaced by an insufficiency bonus which is added to the family allowance. The last three benefits referred to above are granted in situations of insufficiency. The updating of the amounts of family allowances is backdated to 1 July 1997.

Figure H*

Social security benefits



100% - 1994 = 81,707,245,000 escudos
100% - 1995 = 87,080,105,000 escudos

Source: DGAS, on the basis of data from the Financial Management Institute (IGF).

Table 39*

Type of benefits	1994		1995	
	Beneficiaries	Amounts (thousands of escudos)	Beneficiaries	Amounts (thousands of escudos)
CHILDREN AND YOUNG PEOPLE				
Family allowance	1 887 021	57 014 225	1 866 461	60 243 799
Birth allowance	81 793	1 858 557	79 633	1 874 544
Breastfeeding allowance	136 150	3 485 964	129 342	3 426 134
Supplementary allowance for disabled children and young people	43 201	3 663 399	44 989	4 265 263
Third person assistance allowance for descendants with supplementary allowance	5 701	1 074 969	5 896	745 417
Special education allowance	4 680	2 445 658	4 518	2 279 229
Allowance for third person assistance to descendants with life annuity	817	249 820	1 037	170 041
ILLNESS AND MATERNITY				
Maternity allowance	60 560	11 911 477	64 037	14 072 025
Family illness allowance	152	3 176	174	3 653
TOTAL		81 707 245		87 080 105

Source: DGAS, on the basis of IGF data.

* See editor's note on p. 4.

Paragraph 101 of the 1996 guidelines

358. In accordance with article 18, paragraph 3, of the Convention, the social security structure ensures a network of services and equipment for childcare during the parents' working hours. The services are as follows:

359. **Infant carer**: Person who, on her own account, and in return for payment, takes into her home one or more children of other persons, of relatives, or of persons with links of direct affinity or relatives in the second degree of collateral line, during the working hours of the parents or during such time as they are unavailable. Framework legislation: decree law No. 158/84 of 17 May 1984; ministerial order No. 5/85 of 18 January 1985 (supplementing the legal framework established by decree law No. 158/84 regulating aspects which, according to the decree law, would be specified in a separate text); order No. 52/SESS/91 of 4 June 1991 (defining the conditions for the integration of disabled children in the care of an infant carer); order No. 10/SESS/96 of 20 May 1996 (updating the monthly contribution and the food supplement to be applied in 1997).

360. **Family-style day nurseries**: Group of not fewer than 12 and not more than 20 infant carers, living in the same geographical area and technically and financially supported by the regional social security centres, the Santa Casa da Misericórdia in Lisbon or private social welfare institutions with activities among infants and young children.

361. **Day nursery**: A social response in the form of equipment for the reception of children between the ages of 3 months and 3 years, for a daily period corresponding to the parents' working day. The objectives are the following:

(a) Ensuring through personalized care the well-being and full development of children in an emotionally and physically secure environment during their partial separation from their family environment;

(b) Collaborating closely with the family by sharing care and responsibilities during the children's developmental phase;

(c) Collaborating efficiently in the early identification of any non-adaptation or shortcoming, by ensuring an adequate means of progression.

362. **Kindergartens**: Social response in the form of equipment for the reception of children from the age of three up to basic school age for part of the day, with social and educational activities to assist in their overall development. The social security structures are active at two levels in this regard:

(a) **Official kindergartens**: These establishments are in organizational and financial terms part of the regional social security centres, and have extended working hours; they cover educational and family support activities, provide meals and have specialized staff, in particular kindergarten teachers; and

(b) **Kindergartens in private social welfare institutions**: On the basis of cooperation agreements, also covering aspects of education and family support, they provide meals and have extended working hours. The financial contribution granted through cooperation agreements includes a percentage for the technical personnel, in particular the kindergarten teachers.

Table 40

Costs borne by social action

Social response	1994	1995
Day nurseries	897 502 719	890 950 185
Kindergartens	3 374 689 608	3 803 920 031
Day nurseries and kindergartens	13 373 630 032	15 224 563 893
Family-style day nurseries	375 400 119	419 463 572
Infant carers	611 678 881	723 644 825
ATROS*	22 174 303 753	24 791 398 969
Total	40 807 205 112	45 853 941 475

Source: DGAS, on the basis of IGF data.

Paragraph 102 of the 1996 guidelines

363. For the school year 1997/78 the Government initiated a pre-school education expansion and development programme (see paras. 376 ff.).

D. Standard of living (art. 27, paras. 1-3)

Paragraphs 103 and 104 of the 1996 guidelines

364. All the measures described above are intended to guarantee an adequate standard of living for children. Particular mention may be made, however, of the programme "What it means to be a child", in view of its scope; this is a national programme the purpose of which is to support projects aimed at prevention and action in the family and social and educational integration of children in a situation of risk or social and family exclusion, and the promotion of conditions to facilitate the full development of children and the exercise of their status as citizens.

365. Decree law No. 314/94 of 23 December 1994 specifies that 30 per cent of the net profits of the "Instant Lottery" is earmarked for the support of special projects for children in need, including children suffering from a disability. Following this decree law, the Ministry of Solidarity and Social Security published order No. 26/95 of 6 December 1995 in the official

* See editor's note on p. 4.

gazette, No. 298, series II, of 28 December, setting up the "What it means to be a child" programme. This order makes the Department of Social Action responsible for coordinating the programme and defines the competences of the Department. A committee with its own powers was also established.

Functions of the programme

366. The "What it means to be a child" programme provides support for the following activities:

(a) Action in areas where a number of risk factors converge;

(b) Implementation of activities in keeping with the express needs identified;

(c) Improvement of ongoing activities;

(d) Investigation and research;

(e) Evaluation of activities.

367. It gives priority to activities concerning:

(a) The earliest years;

(b) Situations of pre-delinquency and marginality;

(c) Reintegration into the family and society;

(d) Production of information on the topics in question.

368. The programme's principles are:

(a) Participation of its recipients in its activities;

(b) Commitment of the community, through the activation of local resources and formal and informal mutual assistance networks;

(c) Inter-sectoral and inter-institutional partnerships;

(d) Innovation in activities and methodologies;

(e) Know-how.

369. It has established the following objectives:

(a) To facilitate children's harmonious development and improve parent and family skills;

(b) To promote children's reintegration into the family and society;

(c) To improve the self image of children and their families;

(d) To promote systematic knowledge of the phenomena affecting children at risk, deficiencies and their causes.

370. Its initial premises are:

(a) That all children and families have capabilities and competences or the potential for their development;

(b) That the family is a functional unit, integrated in an extended social system;

(c) That activities should take on enabling features to prevent the emergence or the aggravation of situations.

371. The following bodies may submit proposals under this programme:

(a) Regional social security centres;

(b) Private social welfare institutions;

(c) Non-governmental organizations;

(d) Santa Casa da Misericórdia in Lisbon;

(e) Charitable institutions;

(f) Local communities;

(g) Regional social security department of the Autonomous Region of Madeira;

(h) Social Development Institute of the Autonomous Region of the Azores;

(i) Cooperatives for the education and rehabilitation of maladjusted children.

372. In 1996, 228 project proposals were sent to the Department of Social Action, of which 75 were approved by the Minister for Social Integration and 14 are being prepared for approval. The table below gives details of the proposals already approved.

Table 41

Number of projects approved, number of children and families to which the activities and financing of the "What it means to be a child" programme applies, by region

Region	No. of proposals	Target population		Financing of "What it means to be a child" for 1997
		Children	Families	
North	30	5 371	3 549	303 644 768
Centre	17	1 193	982	165 022 555
Lisbon and Tagus Valley	15	1 230	1 036	166 823 519
Alentejo	4	644	422	61 882 002
Algarve	2	38	30	10 107 816
Autonomous region of Madeira	4	80	49	43 083 938
Autonomous region of the Azores	3	651	188	38 004 044
Total	75	9 207	6 256	788 568 642

Source: DGAS, Ministry of Solidarity and Social Security.

VII. LEISURE, RECREATIONAL AND CULTURAL ACTIVITIES

A. Education, including training and vocational guidance (art. 28)

Paragraph 105 of the 1996 guidelines

373. All children and young people have the right to free training based on equal opportunities of educational access and academic achievement, without discrimination as to sex, race, religion or social and economic situation, as established by the Portuguese Constitution (arts. 73-76).

374. The right to education takes its material form in the education system, the basic principles of which can be found in the framework act on the education system (Act No. 45/86 of 14 October 1986). The intention is that this right should be ensured even for children living abroad. All children with a Portuguese residence permit are admitted to the national schools. Directive 77/486/EEC, which encourages support for children who only speak a foreign language (their mother tongue), is still not in force, however. The percentage of total public spending allocated to education in 1996 was 11.45 per cent. In 1997 it was 12.1 per cent.

Paragraphs 106 and 107 of the 1996 guidelines

375. The Framework Act on the Education System concerns three areas of education - pre-school, in-school and out-of-school (or supplementary) education.

Pre-school education

376. Pre-school education, the first stage of basic education, is intended for children from three to six years of age. This stage is optional and aims at supporting families in the task of bringing up the child. In Portugal, only 57 per cent of children attend pre-school education; this is manifestly inadequate.

Table 42

Pre-school education - Ministry of Education network

	Establishments		Children	
	Public	Private/Cooperative	Public	Private/Cooperative
1994/95	3 153	944	66 448	28 403
1995/96	3 250	1 041	68 408	30 501

Source: Department of Planning and Financial Management (DEPGEF) - Core education statistics.

377. For the school year 1997/98 the Government initiated the pre-school education expansion and development programme, the framework legislation for which is Act No. 5/97 of 10 February 1997 and decree law No. 147/97 of 11 June 1997, which regulates it. The purpose of this programme is to support families in the task of bringing up their children, by providing them with opportunities for independence and socialization so as to ensure a balanced integration into life in society and prepare for a successful school career, particularly by regarding school as a place for multiple learning experiences. The Ministry of Education's objective in implementing this programme is to develop quality pre-school education capable of stimulating the participation of families and guaranteeing genuine equality of opportunities of access to educational establishments.

378. The Ministry of Education and the Ministry of Solidarity and Social Security must ensure the necessary links between institutions for the expansion and development of the national pre-school educational network, in accordance with the objectives set out in the framework act on pre-school education, particularly as regards:

(a) Education of the child and the promotion of quality in the educational services to be rendered;

(b) Support to families, particularly in the development of social and educational activities, depending on their needs;

(c) Financial support to be granted to pre-school establishments.

379. In the context of this programme the following measures should be stressed:

(a) Creation of 1,072 kindergartens in the year 1996/97, in accordance with orders Nos. 648/96 of 21 November 1996 and 17-C/96 of 21 January 1996;

(b) Creation under decree law No. 173/95 of 23 July 1995 of 187 new places in kindergartens, as a result of contracts with local communities, private social welfare institutions and other private bodies;

(c) Drafting of a legal and institutional order to create a regulatory framework for the national network, involving the publication of the framework act on pre-school education, Act No. 5/97 of 10 February 1997 and the decree law governing it, decree law No. 147/97 of 11 June 1997. Subsequently, in order to ensure implementation, legislation was passed covering financial support, timetables, equipment and materials, with a view to the expansion and improvement of the quality of pre-school education;

(d) Increase in the pre-school education budget of around 20 billion escudos, in order to bring into existence a plan that had existed since 1994 but had never materialized, to increase pre-school education, coverage to 90 per cent. Priority was thus given to questions of pre-school education which is considered to be the first stage of basic education;

(e) Increase of 100 per cent in the sum earmarked for each public network kindergarten for the purchase of teaching material;

(f) Establishment, under Act No. 5/97 of 10 February 1997, of the principle of free education for five-year-olds attending the educational component of pre-school education;

(g) Signature of a protocol between the Ministry of Education, the Ministry of Solidarity and Social Security, the Union of Portuguese Charitable Institutions and the Union of Friendly Societies, with a view to sustained expansion of the national pre-school educational network and the improvement of the quality of reception.

The main lines of pre-school education curricula were published recently.

380. This programme also covers the continuity and the expansion of itinerant education intended for children who live in remote areas and are too few in number for the establishment of a kindergarten. The itinerant education project began in 1989/90. According to the data, the number of children concerned has tripled in six years.

Table 43

Pre-school itinerant education
1990/91 - 1994/95 (95/96)

Education departments	1990/91		1991/92		1992/93		1993/94		1994/95		1995/96	
	Educators	Children	Educators	Children	Educators	Children	Educators	Children	Educators	Children	Educators	Children
Algarve	3	40	5	105	2	42	5	70	7	90	5	184
Alentejo	6	86	9	147	7	107	18	321	19	311*	24	383
Centre	3	47	5	89	5	84	6	97	10	145	13	194
Lisbon	7	134	9	183	5	98	7	137		323*	7	136
North					2	29	2	34	2	34	2	34
Total	19	307	28	524	21	360	38	659	-	757*	51	930

Source: DEPGEF - Core education statistics, preliminary data for 1995.

381. In 1997, 2.9 per cent of the budget of the Ministry of Education was allocated to pre-school education, representing an increase of 0.4 per cent over 1996 (2.5 per cent) and of 0.7 per cent over 1995.

In-school education

382. Basic education - which we also call primary education - is compulsory and free for all children. It lasts for nine years, beginning at the age of 6 and continuing until the age of 15, and is organized in three cycles of three years each. In 1996/97, there were 1,146,810 pupils in regular basic education, distributed as follows: first cycle: 480,540 pupils; second cycle: 271,659 pupils; and third cycle: 394,611 pupils. Dropouts and academic failures continue to be a matter for concern.

Table 44

Repeat rate (1995)

2nd year	3rd year	4th year	5th year	6th year	7th year	8th year	9th year
15.2%	8.3%	15%	12.3%	11.6%	19.4%	16.6%	13.6%

Source: DAPP, Ministry of Education.

Table 45

Dropout rate (1995)

1st year	2nd year	3rd year	4th year	5th year	6th year	7th year	8th year	9th year
1.9%	1%	1.8%	0.8%	3.4%	3.6%	6.8%	5%	5.1%

Source: DAPP, Ministry of Education.

383. Several activities have been undertaken in order to create the conditions for universally ensuring basic education of quality and for promoting the academic success of all pupils, in particular children and young people at risk of exclusion from society and education. Particular mention may be made of: the creation of educational districts for priority action, by three decrees, alternative curriculum classes, and education and training courses (joint decree No. 123/97 of 7 July 1997). These three new components of the education system are described below.

384. **Educational districts for priority action**: These districts were created by decree No. 147 B/ME/96 of 8 July 1996 and consist of groups of schools of the three primary cycles and pre-school education working on a common structured project, preferably in close collaboration with the community. The aim of the project is to improve the quality of education, combat academic failure and promote innovation. The schools which are part of these districts benefit from special conditions for initiating a number of activities, including:

(a) Teacher-pupil ratio of 15-20 pupils in the first and second basic education cycles, and 20-25 pupils in the third cycle;

(b) Appointment of one or more teachers from specific domains for supplementary educational and curricular activities;

(c) Appointment of a psychologist;

(d) Possibility of recourse to support from mediators and extension-workers;

(e) Establishment of a district teaching council comprising several partners (local communities, parents' associations, cultural and recreational associations).

In all, 44 educational districts for priority action are in operation throughout the country, grouping a total of 284 educational establishments (kindergartens, first, second and third cycle schools) with 54,896 pupils and 5,231 teachers.

385. **Alternative curriculum classes:** Order No. 22/SEE/96 of 19 June 1996 permits the creation of alternative curriculum classes in regular or "continuing" (i.e., additional) education. These classes are intended for specific groups of pupils in situations of repeated academic failure, who have difficulties of integration into basic education and learning difficulties and are at risk of dropout. In order to motivate pupils, and without prejudice to a core of fundamental learning skills, importance is placed on the specific characteristics of the pupils and the development of innovatory aspects in environmental, arts and technology education and science teaching.

386. It seems appropriate to include here paragraph 151 of the initial report *in extenso* explaining what is meant by "continuing education" in the sense of repeated or additional education:

> "Young persons aged between 15 and 18 years who have not completed compulsory schooling at the right age or who wish to continue their studies beyond that level may take 'continuing education courses' which are a 'special education modality' that is also public and free of charge. With curricula adopted to the students' needs and on the basis of a method that guarantees their participation in the educational process at all times, this 'second training opportunity' is regarded as a very good bet that has proved to be highly successful."

387. In 1996/97, there were 1,646 pupils in the 135 classes distributed by region as follows:

Table 46

Number of pupils enrolled

Education departments	Continuing education	4th year	Cont.	5th year	6th year	Cont.	7th year	8th year	9th year	Total
North	-	-	-	12	43	-	56	-	-	111
Centre	36	-	96	118	91	24	97	37	15	514
Lisbon	94	-	93	243	204	17	106	51	-	808
Alentejo	-	-	26	33	15	-	-	-	-	74
Algarve	-	12	-	26	23	-	45	-	33	139
Total	130	12	215	432	376	41	304	88	48	1 646

Source: DAPP, Ministry of Education.

388. Since one of the social concerns set out in the order is to combat the risk of dropout from basic education by pupils from low-income social groups and ethnic minorities, data have been collected on the number of dropouts per year of schooling.

Table 47

Distribution of dropouts

Education departments	Continuing (or additional) education	4th year	Cont. (or addit.)	5th year	6th year	Cont. (or addit.)	7th year	8th year	9th year	Total	%
North	-	-	-	-	4	-	8	-	-	12	10.8
Centre	3	-	16[a]	7	13	11	-	-	-	50	9.7
Lisbon	4[a]	-	32[a]	20	20	5	6	-	-	87	11.0
Alentejo	-	-	11	10	1	-	-	-	-	22	29.7
Algarve	-	-	-	1	1	-	1	-	2	5	3.6
Total	7	-	59	38	39	16	15	-	2	176	10.6

Source: DAPP, Ministry of Education.

[a] Social Rehabilitation Institute establishments.

Table 48

Level of application

Education departments	High	Average	Low
North	99	-	-
Centre	-	464	-
Lisbon	443	210	131
Alentejo	5	21	26
Algarve	90	44	-
Total	637	739	157
Percentage	43.3	50.2	10.6

Source: DAPP, Ministry of Education.

It can be seen that the level of application of the majority of pupils is average-high.

Table 49

Academic success

Education departments	No. of satisfactory results	Rate (%)
North	94	84.7
Centre	407	79.0
Lisbon	614	76.0
Alentejo	48	64.8
Algarve	101	72.6
Total	1 269	77.0

Source: DAPP, Ministry of Education.

It can be seen that the rates of approval according to each department of education and the national average overall rate are close to the national success rates obtained for the regular education curricula.

389. **Education and training courses:** Education and training courses have been created in the context of the programme for the integration of young people into active life (joint decree No. 123/97 of 7 July 1997), with the goal of completing basic education and acquiring a Level II vocational qualification. These courses are directed at young people liable not to complete their compulsory education because they dropout early or give up, and to young people who do not intend to go on to secondary education and who, having reached their fifteenth birthday, can obtain a vocational qualification enabling them to obtain entry to the labour market. During the school year 1997/98, 38 education and training courses in 34 schools were taken by 535 pupils.

390. Council of Ministers resolution No. 29/91 of 16 May 1991 established the inter-ministerial programme "Education for all", and provided for its implementation in two phases, up to 1994/95 and up to 1999/2000. The second phase of the programme, which is still being implemented, has as its mission:

(a) To ensure completion of all 9 years of schooling and successful access to 12 years of schooling at secondary level or equivalent;

(b) To mobilize public opinion on the value of full schooling and the costs of not completing school;

(c) To develop a culture of an extended period of schooling leading to a qualification;

(d) To prevent academic failure and early dropout;

(e) To ensure efficient links between all the participants in the process of schooling so as to bypass the adverse mechanisms that cause early dropout;

(f) To encourage the school-environment link so as to ensure that education is in line with social, economic, cultural and environmental reality.

Table 50

Evolution of the programme since 1992 and forecasts for 1997/98

Year	Budget	Project supported			No. of teachers
		No. of projects	No. of schools	No. of pupils	
1991/92	10 562	-	-	-	-
1992/93	75 000	58	68	36 969	5 704
1993/94	156 500	139	152	88 598	11 600
1994/95	225 000	168	341	107 083	25 300
1995/96	217 000	202	411	128 755	30 494
1996/97	260 000	229	777	218 351	51 714
1997/98	260 000	259	1 192	-	-

Source: PEPT 2000391.

391. Mention should also be made of the project "Teaching Portuguese as a second language", implemented with the support of the European Union, as part of the Socrates Programme (Action 2 - Comenius), with a view to:

(a) Supporting pupils from minority groups attending Portuguese schools, in particular the children of immigrants from African countries and returning emigrants, in their integration (school and society), by means of adequate teaching of Portuguese;

(b) Preparing an initial continuing training model for teachers in this area.

In 1996/97 10 schools (5 in Lisbon and 5 in Setúbal) took part in the project, the number of pupils varying according to the type of activity.

392. In the inter-cultural sphere, order No. 170/ME/93 of 6 August 1993 established the inter-cultural education project, with the participation of 52 primary schools with a high rate of academic failure located in areas inhabited by ethnic minorities. During the school year 1996/97, 22,665 pupils were covered by this project, 5,899 of whom were of non-Portuguese origin. The aim of the project is:

(a) To stimulate inter-cultural education to permit the development of attitudes more suited to the cultural diversity of Portuguese society;

(b) To energize the relationship between school, families and local communities;

(c) To practise equality in access to and enjoyment of the benefits of education, culture and science;

(d) To take into consideration and enhance the value of the different forms of knowledge and the culture of the populations of the schools involved in the project;

(e) To support the social and psychological point of view of the pupils and their families.

393. In view of the fact that the Gypsy people do not consider the schools of the majority of persons in their environment to be "useful" to the development of their children, the "Going to School" project was introduced in order to train Gypsy mediators for:

(a) Building a "bridge" between the school and the Gypsy family;

(b) Encouraging the integration of Gypsy children into the school;

(c) Enabling Gypsy families to become familiar with the organization of the majority society by informing the Gypsy community about the rules by which institutions operate (school, local authority, social security, health);

(d) Creating the example of new professions vis-à-vis this ethnic group.

Since the start of the project in 1995, six mediators have been trained and incorporated in three first cycle schools in the Greater Lisbon area.

394. It is a genuine concern of the Portuguese Government to improve the professional capability of teachers in the most varied areas and to modernize the education system. Order No. 23/ME/95 of 3 April 1995 established a system to encourage the quality of education.

This is a group of measures to support professionals in education, teams of teachers, primary and secondary educational establishments and the educational community, with a view to recognizing the dynamics of local renewal and innovation and supporting teaching initiatives in schools, particularly those lacking in resources.

395. This system of encouragement comprises the following measures:

(a) Measure 1: development of projects for educational innovation in schools;

(b) Measure 2: development of studies and research or research-action projects in education;

(c) Measure 3: organization of exchange activities between schools with innovation or research projects;

(d) Measure 4: publication of products of innovation or research projects.

396. The network of projects "Innovate through educating - educate through innovating" (measure 1) comprises the financing of 139 projects in 195 establishments: 68 at pre-school and first basic cycle level, 59 at second and third cycle level, 55 at secondary level, 4 integrated primary schools and 9 private establishments.

Language teaching

397. As regards the development of the child's personality, gifts and aptitudes, order No. 60/SEEI/96 of 24 October 1996 establishes the conditions in which children can start to learn a foreign language in the first basic education cycle. In accordance with the order, a foreign language can be learned in any year of schooling and be developed in the course of the year by free, optional supplementary activities; no child who is interested is excluded. In the school year 1996/97, some 28,000 pupils in the first basic education cycle had access to early foreign language teaching.

398. In accordance with the Directive of the Council of the European Communities 77/486/EEC of 25 July 1977, on the education of the children of migrant workers and the promotion of the teaching of the mother tongue and the culture of the country of origin, Dutch and Greek are taught in Portugal.

399. The purpose of the teaching of Portuguese abroad as one of the special types of education to which article 22 of the framework act on the education system refers is a better integration of Portuguese nationals and descendants of Portuguese in various countries throughout the world in an effort to maintain their cultural and linguistic identity, not only with a view to preparing in some cases their possible return to Portugal, but also to ensure academic success and the integration, in inter-cultural terms, of the children of Portuguese nationals who choose to live in the different host countries.

400. Tuition in Portuguese for Portuguese minorities established in other countries, with various types of status, emigrants and descendants of Portuguese, encompasses various aspects which may be systematized as follows. In particular, it concerns the distribution, dissemination and study abroad of Portuguese language and culture, by a variety of activities and methods such as the inclusion of tuition in Portuguese language and culture in the curricula of the countries of residence of these Portuguese minorities and the maintenance, creation and extension of a network of Portuguese language and culture courses as a supplementary measure. The following initiatives in pursuit of these objectives are being implemented during the present school year: the LALO (host language and language of origin) project, with the participation of Portugal, Spain and the Netherlands (Rotterdam); a Portuguese language project in partnership with Germany (Rhineland-Westphalia) and Luxembourg, and an inter-cultural project.

401. The following five tables give statistics for Portuguese language and culture courses for the school year 1995/96 in various countries throughout the world.

Table 51

Europe

Official network courses

Country	"Parallel" courses	Courses incorporated into the country's curricula	Pupils
Germany	479	-	6 894
Belgium	28	19	846
Spain	-	85	4 160
France	477	105	15 206
Netherlands	10	-	141
United Kingdom	88	-	1 566
Luxembourg	195	131	4 328
Switzerland	495	-	9 914
Total	1 772	340	43 055

Table 52

Oceania

Private network courses

Country	Course	Pupils
Australia	23	555

Table 53

Africa

Courses in the private and official networks

Country	Course	Pupils
South Africa		
- Official network	105	1 635
- Private network	2	135
Total	107	1 770

Table 54

United Arab Emirates

Private network courses

Emirate	Course	Pupils
Dubai	1	8

Table 55

Americas

Private network courses

Country	Official rec. *	Official ser. rec.*	Pupils
Bermuda	1	-	94
Canada	18	21	3 370
United States	49	14	4 152
Venezuela	5	1	56
Total	72	36	7 972

Source: DEB, Ministry of Education.

Guidance and psychology services

402. Decree law No. 190/91 of 17 May 1991 established the guidance and psychology services for the development of competences in the various types of primary schools, in three major aspects, namely, school and community relations, psychological support for pupils with integration and learning difficulties, and academic and vocational guidance. The last-mentioned aspect basically concerns the third cycle (seventh, eighth and ninth years of school) and consists in guiding pupils towards the use of appropriate sources of information and potential individual

* See editor's note on page 4.

vocational projects helping them to know themselves better (capabilities, interests, etc.) and supporting them in their decisions to continue their studies (in accordance with the offers provided by the education system) or to enter active life.

403. The guidance and psychology services are made up of technical teams comprising a psychologist, a technical expert from the social services and a teacher acting as a vocational guidance adviser. These teams collaborate in community activities to eliminate and prevent avoidance of compulsory education, early dropout and systematic truancy; they also collaborate with teachers, parents or persons responsible for educating children and other persons involved in education in psychosocial guidance activities.

404. These services are not, however, available in all schools; where they do not exist, it is the responsibility of the pupil's teacher (in pre-school and first cycle basic education) and the class principal (for the second and third cycles) to play a preventive role and to provide the pupil with information on academic and vocational guidance.

Table 56

Guidance and psychology services in 1997

Region	No. of services				No. of schools and pupils					
					Existing services		Services created		Total for present network	
	Existing	Created	Reinforced	Total for present network	Schools	Pupils	Schools	Pupils	Schools	Pupils
North	94	52	2	148	125	124 790	90	74 750	215	199 540
Centre	80	40	0	120	315	112 343	105	37 400	420	149 743
Lisbon	118	70	17	205	326	247 755	131	67 116	457	314 871
Alentejo	16	14	0	30	71	17 824	70	14 660	141	32 848
Algarve	11	11	0	22	24	19 264	40	19 811	64	39 075
Total	319	187	19	525	861	521 976	436	213 737	1 297	735 713

Source: DAPP, Ministry of Education.

"Continuing" education and out-of-school education

405. As we said in paragraph 386 above, "continuing" education concerns young people from 15 to 18 years of age who have not completed their compulsory education at the right age and who wish to continue with their studies beyond this level. They have the possibility of access to this additional tuition, which is a special type of education provided on the initiative of public or private bodies or cooperatives. In 1996/97, 46,045 primary pupils and 26,281 secondary pupils participated in "continuing" education.

406. In 1994, "Measure 3, Activity 3.3 - Continuing Education" of the Programme for the development of education in Portugal, 1994-1999, was initiated; this is directed at young people from the age of 15 and any adult who has not completed his compulsory education, has been out of work in the long term and requires vocational updating and retraining, has temporary employment, or is an unskilled worker requiring recognition, a refresher course or retraining.

407. In the sphere of "continuing", supplementary or out-of-school education there are also colleges for reception, education and training which take in young people subject to guardianship decisions, established in accordance with decree law No. 58/95 of 31 March 1995, which reorganized the Social Rehabilitation Institute. These colleges take in young people up to the age of 18 who have not had much schooling, because of early dropout from the school system, truancy or academic failure. At the present time a new joint order from the Ministry of Justice and the Ministry of Education is in the process of approval, providing for the extension of education in the reception, education and training colleges up to the third cycle of basic education and introducing some innovations in the organization of curricula.

Secondary education

408. After obtaining their basic education certificate, young people can go on to secondary education. This is optional and lasts three years; it offers a vast range of general and technological courses which are given in secondary schools or in vocational training schools, established under decree law No. 70/93 of 10 March 1993.

409. The network of secondary establishments is large and offers a range of training in secondary schools (general and technical subjects), vocational schools (vocational courses) and schools specializing in the arts. The first of these take in approximately 91.4 per cent of the total number of pupils enrolled in secondary education, the second approximately 5.9 per cent and the last-mentioned 2.7 per cent.

Table 57*

Public education and private and cooperative education
(Provisional data)

	No. of establishments	No. of pupils enrolled
General courses		216 856[a]
Technical courses	670	73 427[a]
"Continuing" education		11 184
Evening classes		52 393
Twelfth year		56 393
Vocational courses	163[b]	26 347
Arts courses	77	12 000[c]

Source: DEPGEF, Ministry of Education.

[a] 1995/96.
[b] Single subject schools not included.
[c] 1993/94.

The allocation for secondary education from the overall budget of the Ministry of Education for 1996 was 17.6 per cent.

* See editor's note on page 4.

Table 58

Access to higher education

Number of candidates accepted by sex and percentage (1995 and 1996)

1995				
Sex	Candidates	Percentage	Accepted	Percentage
Female	48 093	60.1	18 638	55.7
Male	31 916	39.9	14 835	44.3
1996				
Female	38 255	61.4	18 883	57.4
Male	24 052	38.6	13 990	42.6

Source: Department of Higher Education, Ministry of Education.

Paragraph 108 of the 1996 guidelines

410. As stated in paragraph 373 of this report, all children and young people have the right to education. In addition to the measures already mentioned to diversify education so that the school can fulfil its functions of training, social integration and education, there are others which should be mentioned in the context of social action in schools and health in the school.

411. Social action in schools, which covers all pupils in official basic and secondary education, ensures school transport (the responsibility of the town council), the daily distribution of milk to all children in pre-school education and the first primary cycle, meals in school canteens, accommodation of pupils in residences and school insurance. For low-income pupils, social action in schools contributes in full or in part to the purchase of books and school equipment, food, transport and accommodation; this contribution is updated every year by order of the Ministry.

412. No categories or groups of children or young people are excluded from school. The Ministry of Education, in collaboration with the Ministry of Health, has made a national survey of all cases of pupils with serious illnesses requiring hospitalization. The publication of an order is expected establishing the conditions for access to education of children in hospital or confined to their homes because of illness. A class for children who spend long periods in hospital has, however, existed for several years now in a paediatric hospital (Estefânia district, Lisbon); it is taught throughout the year by a first cycle teacher.

Paragraph 109 of the 1996 guidelines

413. As regards school discipline, taken here in the sense of social behaviour (relations with others), the legislation in force should be rewritten and adapted to our times; this is why a draft decree law on the subject will be made open to public discussion.

414. Respect for human rights and fundamental freedoms in general and the rights of the child in particular is embodied in the framework act on the education system. Decree law No. 286/89 of 19 August 1989, in article 7, established an area for individual and social training to be developed in school curricula. However, the subjects included in the discipline "Individual and social development", especially human rights and the rights of the child, respect for the environment, education for peace and tolerance, sexual education and the promotion of health and inter-cultural education, are generally dealt with in an interdisciplinary manner at school. Although the curriculum gives this discipline as an option, it has still not become generalized for lack of teachers with specific training to teach it.

415. The possibility has also been established in the context of the above-mentioned decree law of including cultural and training activities in school curricula as part of the "Area-escola" (school-area) project. This is a compulsory school activity developed in the form of educational projects which link the school community with the family and the surrounding community. Each school prepares an educational project on a completely independent basis, taking into account the socio-economic context of the region in which it is located. Mention should be made of the quality and quantity of projects prepared as part of the "school-area" project, contributing to the cultural and training capital of the communities concerned.

416. The "Think environment in Portugal" project exists to encourage children to respect the environment. Its aim is above all to promote cooperation and respect for synergies between second and third cycle schools and town councils. In 1996, an educational game was presented to teachers and pupils. In addition, training activities, seminars and exhibitions take place locally, with the participation to date of 188 schools, 602 teachers and 50 town councils.

417. The exercise of the pupils' right of association is governed by act No. 33/76 of 11 July 1976.

418. Although health in schools is the responsibility of the Ministry of Health, the Ministry of Education is implementing the programme "Health education and its promotion" created by order No. 172/93 of 13 August 1993. This country level programme for primary and secondary school pupils aims at ensuring health education and promotion activities such as the prevention of drug addiction and AIDS, and at promoting links with the other government departments and civil bodies conducting projects in this area. In 1997, 293 educational establishments (kindergartens, first, second and third cycles of basic education and secondary education) took part in the project "Long live school", as part of the above programme.

Paragraph 110 of the 1996 guidelines

419. Generally speaking, the majority of bilateral agreements refer to education. The Ministry of Education and experts have participated in the texts for joint commissions and subcommissions along with the following countries: Slovakia, Czech Republic, China, Luxembourg (joint subcommission), Bulgaria, Germany, Hungary, Poland (programme project), Belgium and Tunisia. In 1997, joint commissions were being set up with France and Germany

and Portugal participated in the preparation of texts for the agreements with Poland, Morocco, Uruguay and Argentina. A bilateral exchange project was established with the Ministry of Education of Brazil on alternative programmes for a public in difficulties, pre-school education and teacher training.

Paragraph 111 of the 1996 guidelines

420. We do not have the data to reply to this request for information.

B. Objectives of education (art. 29)

Paragraph 112 of the 1996 guidelines

421. The objectives set out in paragraphs 161-166 of the initial report are still valid. We should, however, say that all the projects and measures described presuppose compliance with article 29 of the Convention.

Paragraph 113 of the 1996 guidelines

422. The legal system governing teacher training is established in a decree law which defines the administration and support coordination system. The goals and principles of the system were set out in the initial report (paras. 158 and 159). Where continuing training for teachers is concerned, there are some 220 training centres throughout the country. During the year 1995/96, 42,271 teachers received training under the "Focus" programme.

423. A collegiate reflection project is currently in progress on curricula for basic education, with the participation of all persons concerned in the education and training of children and young people. This nationwide process of reflection began during the school year 1996/97 and took the form of a concerted group of activities and the sending of a set of documents to all schools; the intention of the analytical proposals contained in them was to initiate discussion on the efficient and flexible management of curricula involving the following aspects:

(a) Identification of a competences profile for pupils leaving basic education;

(b) Definition of learning processes and nucleated acquisitions in terms of this profile, by cycle, area and discipline, to be guaranteed nationally;

(c) Anticipation of flexible and more adequate modes of curriculum management by schools or school groups, ensuring the incorporation of learning processes and essential acquisitions, but enabling flexible projects more suited to the situation and needs of each school or group of schools to be drawn up.

The aim is to ensure, through discussion of all the documents by the teachers and schools of all the cycles, an overall and not a fragmented view of basic education.

424. Similarly, a collegiate revision of curricula for secondary education is currently in progress.

425. The management and administration models in force in schools enable parents and those responsible for education and other persons involved (if the case arises) and the pupils themselves (depending on their age) to participate in all educational matters, except for those concerning evaluation.

Paragraph 114 of the 1996 guidelines

426. The freedom of individuals, institutions or social groups to promote the establishment of schools on their own initiative and under their guidance is a recognized right and includes the principle of the freedom to learn and to teach embodied in the Portuguese Constitution.

Paragraphs 115 and 116 of the 1996 guidelines

427. Private and cooperative education is governed by its own statutes - decree law No. 553/80 of 21 November 1980 - which defines its statutory framework and direction, while safeguarding, as its preamble states, the embodiment of aspects essential to freedom to establish, manage and guide educational establishments and responsibility in that regard, and ensuring equal opportunities of access to education.

428. It should, however, be noted that the framework act for the education system gives private and cooperative educational institutions the opportunity to follow the plans and the curricula of public education or to adopt their own plans and curricula, which will not be incorporated into the school network.

429. Decree law No. 35/90, which establishes that compulsory basic education is free of charge, also states that implementation of the provisions of this decree in private and cooperative education will be progressive, depending on the financial resources available.

430. In the context of its competences as regards private and cooperative education, it is the responsibility of the State:

(a) To approve the creation of private educational establishments and authorize them to function;

(b) To furnish the necessary teaching and technical support to enable them to function properly;

(c) To guarantee the teaching and scientific standard of the curricula and methods;

(d) To grant subsidies and draw up contracts to enable private and cooperative schools to function.

431. The State may conclude various types of contract:

(a) Contracts with private schools located in areas where there are too few public schools;

(b) Contracts of association permitting attendance at private schools under the same conditions of free tuition as for public schools;

(c) Simple contracts to establish special conditions for attending private schools by means of State participation in the fees established by the schools;

(d) Sponsorship contracts to stimulate and support areas of education not covered (or covered under strict conditions) by official education, in particular, arts education (schools of music and dance).

Over and above these contracts, the State may also grant duly justified special subsidies to private schools, enabling them to start up, making them financially viable, expanding their facilities, and equipping or re-equipping them.

C. Leisure and cultural activities (art. 31)

Paragraph 117 of the 1996 guidelines

432. The basic education system act establishes activities to supplement the curriculum, including the enrichment of cultural and civic life, physical education and sports, arts education and the integration of pupils into the community. They should enhance the value of the participation of children and young people and their commitment to their organization, development and evaluation.

433. In this context, most schools offer pupils various supplementary activities such as workshops, clubs, multimedia reference libraries and games libraries. Provision is made for these activities in the annual activities plan/educational project, with a view to individual training, incorporation of know-how and respect for civic and cultural values.

434. The programme of health education and its promotion mentioned above (para. 418) finances recreational projects proposed for summer holidays. At the present time, nearly 398 schools have holiday projects.

435. As regards sport at school, the schools are involved in activities both within and between schools and communities in various spheres; sports activities are aimed at the pupil's overall development and seek to encourage a taste for good physical health and a contact with nature.

Table 59

School sport 1996/97 (second and third basic cycles and special education)

Indicators of extramural activities[a]

Regional departments of education	No. of classes participating	No. of pupils involved	No. of groups/ teams in national competition	No. of groups/ teams outside national competition	No. of groups/ teams with special projects	No. of federated groups/teams	No. of teachers taking part
North	369	28 640	1 002	309	81	40	1 399
Centre	266	23 360	908	203	25	32	940
Lisbon	342	30 720	937	542	31	26	1 471
Alentejo	87	7 200	223	102	28	7	307
Algarve	51	440	117	100	0	0	235
Total	1 105	94 260	3 187	1 256	165	105	4 352

Source: Office of the school sports coordinator.

[a] The estimated overall number of pupils participating in extramural activities, holiday camps, special sports training centres and cross-country events is 600,000.

436. Physical education is a curricular discipline and is therefore compulsory at all levels of education, from the first cycle of basic education to the end of secondary education. Budgetary problems make it impossible for there to be regular, systematic and directed physical activity in the first cycle. In order to remedy this situation, the office of the schools sports coordinator, in collaboration with the department of basic education, is in the process of preparing a project to be known as the programme for the development of physical education and school sport in the first cycle of basic education; this programme is aimed at procuring conditions to ensure that all first cycle pupils will be able to have at least two or three 30 to 45-minute sessions of motor physical education per week, under the guidance of their teacher, in their school and in conformity with the curricular objectives of this discipline.

437. Recreational activity centres, encouraged by the social security, are establishments with legal support from public and private profit-making or non profit-making bodies, proposing recreational activities to children over 6 and young people up to the age of 30, of both sexes, in their free time. The framework legislation is ministerial order No. 96/89 of 21 October 1989, governing the conditions for the installation and operation of profit-making recreational activity centres. Their objectives are the following:

(a) To offer every child or young person an opportunity for integration into society through group participation;

(b) To contribute to each group's achievement of its objectives, according to the needs, aspirations and specific situations of each participant and his social group, by encouraging support of freely selected aims;

(c) To create an environment for the individual development of each child or young person in order to make him capable of finding and expressing himself in an atmosphere of understanding, respect and acceptance of others;

(d) To encourage interrelations between and among families, schools, communities and establishments with a view to making good and profitable use and enhancing the value of all the resources of the environment.

438. Holiday camps, organized for the most part by the social security and by non-governmental organizations and private social welfare institutions, are a social response of vital importance for the physical, psychological and social balance of their users, particularly those who are most vulnerable, children, for example, often prevented by the difficulties of everyday life from being in a situation in which they can enjoy holidays. Holiday camps are intended for all age groups of the population and the family in general and are intended to meet the need for recreation and a break in routine, of vital importance for the physical, psychological and social balance of their users. They may be of two types: the open holiday camp and the residential holiday camp. They have the following objectives:

(a) Periods spent away from the usual living environment;

(b) Contacts with other communities and areas;

(c) Group living as a form of social integration;

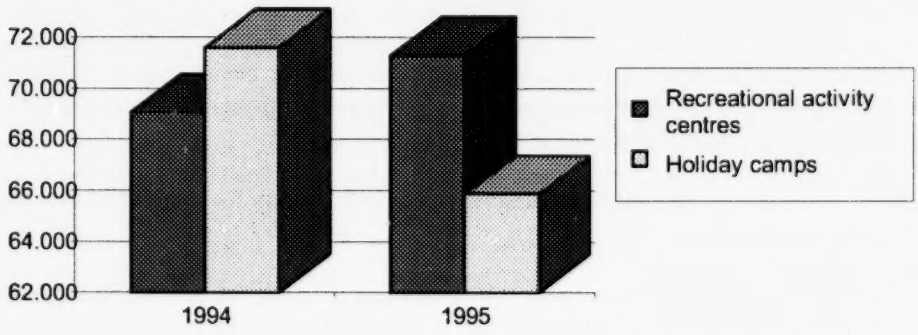
(d) Promotion of the development of a spirit of mutual aid;

(e) Stimulation of creative capacity and spirit of initiative.

Regulations exist regarding the general conditions for the establishment and functioning of holiday camps.

Figure 17

Users of recreational activity centres and holiday camps



Source: DGAS on the basis of data from the Financial Management Institute.

439. The State Secretariat for Youth initiated two programmes in 1996 for the healthy occupation of young people's free time: occupation of free time and sports holidays:

(a) The occupation of free time programme is aimed at stimulating direct contact between young people and nature and at improving their knowledge of the world around them, particularly in terms of history, culture, society and sport, and inculcating in them values such as mutual aid and availability for others. Approximately 45,000 young people, involved in 4,400 projects, have taken part in this programme;

(b) The sports holiday programme is aimed at contributing to the character-building of young people through the discovery and practice of sport. Some 53,000 young people in 701 projects took part in this programme, with the collaboration of the State Secretariat for Youth and Sport.

440. Mention should be made of the activity of the Child Support Institute, which for 15 years has been devoting a great deal of attention to activity through play and supporting institutions throughout the country in setting up hundreds of games libraries, by organizing and conducting encounters, seminars, training activities and technical support for projects.

Paragraph 118 of the 1996 guidelines

441. No change has taken place since our last report was written (para.171).

VIII. SPECIAL MEASURES FOR THE PROTECTION OF CHILDREN

A. Children in emergency situations

1. Refugee children (art. 22)

Paragraphs 119 to 122 of the 1996 guidelines

442. The mechanisms and statutory provisions applicable to the granting of asylum mentioned in the initial report (CRC/3/Add.30, paras. 173 to 175) are still in force.

2. Children in armed conflicts (arts. 38 and 39)

Paragraphs 123 to 131 of the 1996 guidelines

443. The legal framework mentioned in the initial report (paras. 176 to 180) has remained unchanged.

B. Children in conflict with the law

1. Administration of juvenile justice (art. 40)

Paragraph 132 of the 1996 guidelines

444. The principal features of the system of administration of juvenile justice (organization of guardianship for minors, sanctioned by decree laws 314/78 of 27 October 1978 and 189/91 of 17 May concerning minors' protection boards and the enforcement of the measures decreed) have already been described in the initial report (CRC/C/3/Add.20, paras. 181-201).

445. To ascertain the present situation in the country in this field it will suffice to update the statistical information on the work of the minors' protection boards, the role of the juvenile courts and minors in custody in the re-education institutions of the Ministry of Justice. Mention must also be made of decree law 58/95 of 31 March 1995, which completed the reform of the Social Rehabilitation Institute. This institute forms part of the Ministry of Justice; it was established under decree law 319/82 of 11 August 1982 to provide technical support for the administration of justice and to supervise execution of non-custodial sentences. In implementation of that decree it absorbed the minors' guardianship services in the same ministry, taking over all the functions previously performed by those services both in the provision of support for the juvenile courts and in the enforcement of the measures handed down by those courts. Following that change in the law the Social Rehabilitation Institute is now responsible for the management of the guardianship establishments of the Ministry of Justice, which have been renamed "reception, education and training colleges" (they were formerly known as re-education establishments and medical and psychological institutes) or "autonomous residential units" (formerly known as "homes") (see also para. 491 below).

446. The Committee on the Rights of the Child did not consider Portuguese legislation on juvenile justice satisfactory and placed on the agenda of the meetings scheduled for consideration of the initial report (250th, 251st and 252nd meetings, held on 9 and 10 November 1995) the following items:

(a) Position of the Government with regard to the granting to children of the procedural guarantees provided for in article 40, paragraph 2 (b), of the Convention; and

(b) Position of the Government with regard to providing for different forms of judicial action applicable respectively to children who have committed criminal offences and to those who need protection and assistance on account of having been victims of ill-treatment or of abandonment or negligence.

447. During the meetings at which the report was considered, the Portuguese delegation informed the Committee on the Rights of the Child of the intention of the Government, which had just come into power, to review the law applicable to juveniles with a view to ensuring conformity of the latter with the Convention and other international legal instruments on the administration of juvenile justice which were binding on the country. In its concluding observations on the implementation of the Convention, the Committee restated its concern that that reform had still not been implemented in the area of the administration of juvenile justice

and specifically recommended that adequate measures be adopted to guarantee the compatibility of legislation and judicial and administrative practices with the principles and provisions of the Convention.

448. In accordance with the foregoing, the Minister of Justice instructed the Reform Commission established by order No. 20/MJ/96 of January 1996 to begin the reform of the system of post-sentencing dispositions, to carry out preliminary studies for the revision of the legislation on the administration of juvenile justice and to make all proposals for legislative and institutional measures deemed relevant.

449. In August 1996 the Commission submitted an initial report to the Minister of Justice analysing the shortcomings and anachronisms in the current legislation and the lack of conformity between that legislation and international instruments on juvenile justice and the principal instruments of Portuguese legislation, in particular the Constitution. (The Constitutional Court had already declared unconstitutional the provision in the minors' protection regime which did not allow minors to be assisted by a lawyer, except in cases of appeal, and the negative effects of its enforcement.) A second report, laying down guidelines for new legislation, was submitted in December 1996. The orientation proposed by the Commission received the support of the Minister of Justice, and the draft reform is at present being disseminated and is under public discussion.

450. The Commission proposed the separation of judicial action relating to children who were victims of ill-treatment or negligence or had been abandoned (referred to hereinafter under the global appellation of "children at risk") from that relating to children aged between 12 and 16 years who had committed criminal offences, proposing a system of "protection" for the former and one of "education" or "training" for the latter. The two forms of action were to be separate and governed by different legislation; however, in the view of the Commission, responsibility for both should lie with the juvenile courts (while maintaining, for children at risk, the subsidiary nature of court action in relation to administrative action, which is already present in current legislation), and the safeguarding of the higher interests of the child should be the paramount criterion.

451. Under the guidelines proposed for juvenile justice, a child who has committed a breach of criminal law or is suspected of having done so will be treated as a subject of law and an actual participant in the trial proceedings. The purpose of this step is to strengthen the feeling of self-respect and of respect for the rights of others and the demands of life in society, and also to promote the child's integration into society, the latter being understood as the absorption of the values and legal standards governing life in a community. The proposals formulated comply fully with the principles and provisions of the Convention on the Rights of the Child; they also comply with the other international instruments on juvenile justice which are binding on Portugal (Beijing Rules, Riyadh Guidelines, United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Council of Europe resolution R (87) 20). The subsections which follow contain a detailed analysis of the compliance of the draft reform plan with article 42 of the Convention in accordance with the guidelines proposed by the Committee on the Rights of the Child.

Paragraph 133 of the 1996 guidelines

452. Like current legislation, the draft reform plan is based on the principle of exemption of minors under the age of 16 from criminal liability. Thus one cannot, strictly speaking, refer to a "presumption of innocence", since up to the age of 16 minors are never considered "guilty" of any offence against the Penal Code committed by them. The Commission asserts, however, that that does not mean that proof of any illicit acts ascribed to a child need not be obtained. On the contrary, proof of the facts is considered to be an essential condition for any decision on the measures to be taken.

453. Once the trial proceedings have begun, the child must be brought as soon as possible before the government procurator, who will inform and listen to him or her on the subject of the acts he or she is alleged to have committed. In addition to this compulsory hearing, at which the minor must be assisted by a lawyer, the government procurator must grant the minor a hearing whenever necessary or at his request. The right to be heard on request is a specific right of minors. When juveniles are arrested, judges must accord them a hearing on the facts attributed to them and any other circumstance of relevance to forming a judgement on their case.

454. Minors have the right to be assisted by defence counsel at all stages of the trial proceedings and in connection with every procedural step; they must be informed of that right as soon as possible. The presence of counsel is compulsory in certain situations, namely at the obligatory hearing (by a government procurator or a judge where the minor is being held in custody) and also:

(a) At all hearings during the decision-making phase;

(b) At the court sitting itself;

(c) In appeals;

(d) At all procedural acts if the minor is blind, deaf or dumb and manifestly has difficulty in understanding the Portuguese language, or when the question arises of whether he or she has the ability to understand the meaning of the trial proceedings or of the procedural steps in which he or she is required to participate.

455. Apart from these situations, and in cases where no lawyer has been appointed, it is the responsibility of the government procurator (during the investigation stage) or the judge (during the decision-making stage) to appoint defence counsel for the minor if the latter so requests or, even in the absence of such a request, when the circumstances of the case make it necessary or reasonable that the minor should be assisted by defence counsel. For legal purposes no provision is made for any type of assistance other than that of a lawyer. It is recognized, however, as a procedural right specific to children, that they may be accompanied by their parents or a legal representative at every procedural step. These persons cannot be debarred from attending unless special circumstances, and in particular the interests of the child, justify such a measure.

456. Under the legislation currently in force the guardianship procedure comprises a single stage, directed by a magistrate, who is responsible for ordering production of all evidentiary material he or she considers relevant and, once the magistrate considers himself or herself sufficiently well-informed, for pronouncing the final decision. The Reform Commission considers that this system is of a nature adversely to affect the independence of the decision-making body and recommends that the procedure should comprise two stages.

457. The first stage - the investigating stage - is conducted by the government procurator and designed to investigate the crime. At the end of this stage the government procurator should announce the final conclusions of the investigation; those conclusions should include the facts ascribed to the child, the relevant legal provisions and the evidence gathered. The second stage - the decision-making stage - would be presided over by a judge. During that stage the judge would be able, if desirable, to order further evidence to be sought. The minor could also request measures to seek evidence. In his or her order the judge would fix the date of the court sitting and list the facts ascribed to the minor. If the latter had no lawyer, the judge would appoint one. The judge's order would be communicated to the minor, to the parents or legal representatives and to the defence counsel, all of whom would be summoned to the court sitting. The minor would also be allowed to be accompanied by a person whom he or she trusts; this would be a right specific to minors.

458. The court sitting would take place in the juvenile court. That court is of specialized jurisdiction and generally consists of a single judge. In particularly serious cases it is already accepted that the court should be made up of a professional judge and two social (lay) judges. The evidence on which the decision of the court would be based must be produced or assessed at the court sitting, at which both parties must be heard. The minor could demand the production of any evidence he or she considered necessary. As stated earlier, the child would have to be assisted by a lawyer at the court sitting.

459. To enable the case to be dealt with as quickly as possible, time limits are proposed for both the investigating and decision-making stages. The time limit for completion of the inquiry would be three months; where the case presents particular difficulties or there is difficulty in obtaining evidence, the government procurator would be able to extend the duration of the investigation stage by not more than two months. The maximum duration for the decision-making stage would be three months.

460. As an expeditious and equitable manner of dealing with cases which are not particularly serious, the Commission proposes that the government procurator should be able to order provisional suspension of the proceedings at any time during the investigation stage. That procedural step would have to be resorted to whenever the necessary conditions for the application of a measure had been met (i.e., when conclusive proof existed that the minor had committed the acts ascribed to him or her and the minor's personality was such as to need education in respect for the law) and the specific need for judicial action could be met by imposition on the minor by the government procurator of certain obligations or standards of conduct with which he or she would have to comply for a period not exceeding four months. At the end of that period, if the minor had complied with the obligations or standards imposed, the case would be definitively dropped.

461. This mechanism is designed not only to deal expeditiously with less serious cases but also to create more room in proceedings involving minors for mediation and consensus between children committing criminal offences and their victims. For that reason, before the measure can take place, not only is the assent of the minor required (and, in the case of a minor under age 14 and where the suspension may lead to a restriction of his or her fundamental rights, the consent of the parents or legal representatives as well) but in addition the victim must expressly state that he or she does not object.

462. Minors may through their defence counsel lodge an appeal against the decision handed down by a court at the final hearing. The appeal may relate either to the proof advanced or to the measure ordered. They may also appeal against the entire sequence of decisions taken by the judge or the government procurator during the proceedings. The appeal will be submitted to the court of second instance, which will issue final rulings on questions of law and substance. In appeal proceedings, as stated earlier, the minor must be assisted by counsel.

463. Once the proposal for the subsidiary application of the Code of Penal Procedure comes into effect, the provision in that text, already referred to in the initial report, to the effect that an interpreter must be appointed in all proceedings involving a person who has no knowledge of the Portuguese language, or has insufficient command of it, will become applicable to minors. In such cases, as mentioned earlier, the assistance of counsel will be compulsory.

464. The draft reform plan reaffirms that proceedings involving minors must be confidential in order to safeguard their private lives and to avoid the stigma and marginalization which may result from the illicit acts committed becoming public knowledge. In the minor's own interests, however, certain limitations would be imposed on the absolute nature currently attaching to that principle. Thus when the interest of the minor justifies such a step the judge may authorize the presence at the hearing of persons other than those required by law to be present or read the decision publicly. The minor may also request that the decision be read publicly. If a decision is not read publicly the judge must, at the end of the hearing, make a statement on the facts proved and the decision taken if requested to do so by any person having a legitimate interest in knowing the decision or by the media. The minor and his or her friends and relatives may not be identified, and no item of information permitting their identification may be supplied. When the media report illicit acts committed by minors, they may not identify the latter, even to their friends and relatives, and may not transmit any data permitting their identification.

465. The Commission has given much thought to the question of the interference in private life to which welfare reports may give rise. On the one hand, it has taken into account the fact that in a procedure involving minors the welfare report is generally an important element in the search for an individualized decision fully matching the actual situation of the child; on the other hand, it has not forgotten that a risk of a violation of the right of the child and his or her parents to respect for their private lives often arises as a consequence of social investigations which are useless, disproportionate or pry into intimate aspects of personal or family lives, or aspects knowledge of which is of no importance for purposes of reaching a decision on the case. The draft reform plan therefore states that a report may only be requested by the judge during the final stage and when the ordering of measures of some gravity is under consideration and, where

appropriate, if a report is actually necessary. During the investigation stage the government procurator may seek a welfare report only in cases where provisional suspension of the proceedings is under consideration.

Paragraph 134 of the 1996 guidelines

466. The draft reform plan states that children under the age of 12 are deemed to be incapable of infringing penal law. Thus the fact that a child under the age of 12 commits an illicit act does not of itself give rise to judicial action. If children are at risk because of the absence of the educational care necessary for their development, support in the forms provided by law for minors in that situation can and must be afforded them; if this is not the case, the act will have no consequences.

467. As was stated in the initial report (paras. 193 ff.), protection for children at risk is provided essentially by the protection boards, the constitution, composition and methods of operation of which were described. If the persons exercising parental authority object to action by the Board and also in areas not yet covered by boards, the action taken can only be judicial. The work of the protection boards is considered positive; they are therefore being set up throughout the country. As a rule they succeed in obtaining support for their work from the parents of the children concerned; consequently referrals to the courts in the absence of agreement are relatively rare.

468. According to the last evaluation report on the activity of the boards, concerning the year 1995, during that year the activities of the 118 boards already established were extended to an additional 3,500 children; in most cases the situations of those children had been reported by schools or health centres. In most of the cases reported the children concerned were being neglected or ill-treated or were at serious risk on account of the economic or educational inadequacies of their families. In practically every case the parents of the children reported were illiterate or had very low levels of schooling, were without any vocational training, frequently had problems of physical or mental health, alcoholism or drug addiction and were living in dwellings unfit for human habitation and in slum districts. In financial terms, the families were far below the poverty threshold and were having difficulties in the management of the meagre resources available to them and were incapable of providing their children with essential health care, hygiene and nutrition.

469. It is hoped that this situation of penury will soon change as a result of the extension next July to the entire country of the Minimum Guaranteed Income Programme. These hopes are enhanced by the fact that its award will be paralleled by a social integration programme, one element in which is the care to be given to children. The minimum guaranteed income, which has been successfully applied on an experimental basis in a number of *concelhos*, will probably give rise to a significant change in the activity of the protection boards. This subject has already been studied by the inter-ministerial commission responsible for coordination between the Ministry of Justice and the Ministry of Solidarity and Social Security; one of its conclusions was the need to establish in future years formal structures for coordination between the local committees responsible for monitoring the minimum guaranteed income and the protection boards.

470. The Reform Committee favours the maintenance of the protection boards and even proposes the extension of their competence to children who have difficulties in adjusting to social life or who are in marginalized situations (begging, vagrancy, prostitution, debauchery, alcohol abuse or illicit use of narcotics), who would thus no longer be subject to the same forms of judicial action and the same measures as minors who commit crimes. At the same time, it recommends a number of legal measures or guidelines for action designed to strengthen the rights and safeguards of the child and its parents vis-à-vis the boards. It proposes in particular:

(a) That, before the board can act, there should be a requirement, not only of the consent of the legal representatives of the child, but of the child himself or herself if aged 14 or over (otherwise the matter will be dealt with by the courts);

(b) That the child be given a hearing at every stage as soon as his or her age allows this;

(c) That the principle of minimum intervention should be respected in welfare investigations, the gathering of information and the application of measures;

(d) That the persons who have the custody of the child (in particular the parents) and the children themselves (provided that their level of discernment permits) should be associated in the choice and enforcement of the measure; there should be express recognition of their right to make suggestions for courses of action they consider more appropriate, which would be given due consideration;

(e) That the measures ordered should be deemed to be of limited application in time, should be reviewed periodically and should be rescinded once no longer necessary.

471. The reform of the legislation on juvenile justice should be preceded by substantial reforms at the level of the Ministry of Solidarity and Social Security to provide the latter with the structure and resources necessary for the assumption, in coordination with local authorities and private social welfare institutions, of support for marginalized children or children having difficulties in adapting to social life; those tasks are currently handled through the Ministry of Justice.

472. In October 1996, by joint decision of the Minister of Justice and the Minister of Solidarity and Social Security, a joint committee was established to coordinate the work of the two Ministries in this field. In July 1997 it produced a report defining the principal difficulties and shortcomings in the social protection of children at risk, having difficulties of adjustment to social life or in marginalized situations. The committee proposed legislative and institutional reforms which it considered essential to deal with these problems, including the following:

(a) Improvements in the legal framework governing the protection boards to enable them to function more efficiently, to coordinate their activity more adequately with that of public and private bodies concerned with children and to regulate certain areas in which confusion exists, such as the rights of children placed in institutions and of their families;

(b) The adoption of measures permitting the provision of effective assistance and guidance to children in their natural living environment with a view to keeping to a minimum separation from the family in situations where a decision to that effect is inevitable;

(c) The improvement of the educational skills of foster families and the development of experimental projects concerning foster families specializing in children with more difficult problems or behaviour patterns;

(d) A general and judicious evaluation of public and private institutions receiving children, bearing in mind their geographical locations, the objectives pursued and the educational methods utilized, with a view to providing the country with a network of institutions with high educational standards located in suitable geographical areas and adapted to the difficulties actually experienced by children;

(e) Incentives for the creation of innovative educational projects to deal with specific problems (in particular for children suffering from drug addiction, with long experience of street life, with emotional disturbances or particularly aggressive, for whom existing responses are inadequate) to be developed in both institutional and natural living environments;

(f) Incentives for the creation of emergency shelters to handle crisis situations;

(g) A judicious evaluation of the situation of children placed in families or institutions with a view to ascertaining whether in specific terms their situation is more favourable than it would be if they were returned to their natural families;

(h) The adoption of procedures for the removal of children who are victims of ill-treatment, at risk or in situations of social maladjustment or marginality from the institutions of the Ministry of Justice in which they are detained at present, arranging where possible for their return to their families or transfer to other forms of placement in the social sector.

Paragraph 135 of the 1996 guidelines

473. In accordance with the report of the Committee on the reform of the juvenile justice system, the measures applicable to minors between the ages of 12 and 16 who have committed illegal acts should be educational in character in the sense of education to inculcate a sense of duty, the end-purpose of which is the integration of the child into society, that aim being understood as the absorption of the values and legal provisions which regulate life in society. In selecting the measure to be adopted the judge must take into account, first, the need to correct the personality of the minor (a need which must be apparent in the act committed and still be apparent when the decision is taken) and, second, the level of seriousness of the act committed. In fact, the measure must be commensurate with the need to correct the personality without being out of proportion to the gravity of the act committed. The court must choose the measure ensuring the lowest possible level of judicial action while complying with those principles.

474. A wide range of measures, set out in ascending order of the degree of restriction of liberty which each implies, are proposed. Specifically, the following measures are proposed: caution, compensation of the victim, community work, participation in training programmes, educational support, placement with an individual or an appropriate institution in the social sector and placement in a semi-custodial or custodial institution of the Ministry of Justice.

475. The draft reform plan attaches special importance to measures providing for effective or symbolic reparation of the prejudice caused by the offence, given that these decisions are intended to serve as lessons. The reparation can take the form of an apology to the injured party, payment of a sum not exceeding half the minimum national wage, or performance of an activity for a period not exceeding 35 hours. Community work can also take the form of payment or performance of an activity, within the above-mentioned limits, for a public or private entity doing work of a social nature.

476. The measures providing for educational follow-up and placement with an appropriate person or institution in the social sector must have a tangible educational effect, as reflected in the imposition by the court of rules of conduct or duties (for example, regularly to attend a school or recreation centre, to follow the instructions of a child guidance institution), the fulfilment of which is monitored by the Social Rehabilitation Institute or by an institution appointed by the court for that purpose. Such measures will apply for a period established by the sentencing court but not longer than the legal maximum (two years). Should they be applied for longer than one year, they must be reviewed after the first year; the court can order that they be terminated.

477. The terms and implementation of the measures of placement in Ministry of Justice custodial or semi-custodial institutions are discussed in paragraphs 489-491 and 496-500 below.

Paragraph 136 of the 1996 guidelines

478. As was stated in the initial report, the law applicable to children is covered in the initial training programme for judiciary magistrates and public prosecutors run by the Centre for Judicial Studies. The most important international legal instruments in the field of juvenile justice, in particular the Convention on the Rights of the Child, are studied throughout that programme.

479. All the major international legal instruments in the field of juvenile justice, in particular those mentioned in paragraph 136 of the Guidelines (Beijing Rules, Riyadh Guidelines and United Nations Rules for the Protection of Juveniles Deprived of their Liberty) have been published in Portuguese in the journal of the Social Rehabilitation Institute, *Infância e Juventude*. The journal has also published the text in Portuguese of the Convention, the report on its implementation in the country and the concluding observations of the Committee on the Rights of the Child thereon. Not only is the journal sold at a reasonable price; it is also distributed free of charge to the Ministry's services, the juvenile courts and entities dealing directly with the protection of children. It can thus be said that all professionals involved with the administration of juvenile justice have easy access to all those texts.

Paragraph 137 of the 1996 guidelines

480. Tables 60, 61 and 62 below provide all the available data on the administration of juvenile justice; they have been drawn up on the basis of the data published by the Justice Statistics Service.

Table 60*

Situations in which court action was taken

	1991	1992	1993	1994	1995	1996
Ill-treatment, abandonment, risk	320 13.2%	600 21.6%	386 16.9%	587 21.1%	682 24.3%	763 28.3%
Maladjustment to society	213 8.8%	327 11.7%	233 10.2%	262 9.4%	263 9.4%	276 10.2%
Begging, vagrancy, prostitution, debauchery, alcohol abuse, use of illicit drugs	627 25.8%	574 20.6%	486 21.3%	594 21.3%	484 17.2%	453 16.8%
Criminal offences	1 351 55.7%	1 351 48.6%	1 257 55.1%	1 434 51.5%	1 519 54.1%	1 317 48.9%
Total	2 425	2 777	2 278	2 780	2 808	2 693

The total amounts to more than 100 per cent because some minors were probably in several of the situations.

481. The data confirm that the number of minors under 16 brought before the courts for having committed crimes is tending to stabilize, as mentioned in the initial report. Situations of social maladjustment and of begging, vagrancy, prostitution, debauchery, alcohol abuse and use of illicit drugs also stabilized and even decreased in numbers. The number of court cases involving ill-treatment, abandonment or risk situations increased considerably, however (representing 28.6 per cent of the total in 1996). At present, criminal acts are the source of less than half of juvenile court proceedings. Minors are most frequently brought before the courts for theft, causing of damage, bodily harm and driving without a licence, as revealed in the table below.

* See editor's note on p. 4.

Table 61*

Offences for which the courts had to intervene most frequently

	1991	1992	1993	1994	1995
Theft	893 66.1%	860 63.7%	824 65.6%	939 65.5%	1 013 66.7%
Damage	122 9.0%	169 12.5%	157 12.5%	163 11.3%	182 12%
Bodily harm	96 7.1%	94 7.0%	92 7.3%	118 8.2%	109 7.2%
Driving without a licence	52 3.8%	53 3.9%	60 4.8%	66 4.6%	29 1.9%
Total	1 351	1 351	1 257	1 434	1 519

482. There has been no significant change in recent years in the age of minors brought before the courts for having committed a criminal offence, and the statistics reflect no increasing precocity in delinquent activity.

Table 62

Ages of juveniles to whom measures were applied for having committed a criminal offence

	1991	1992	1993	1994	1995
Under 13	324 24%	359 26.6%	266 21.1%	279 19.4%	336 22.1%
Aged 13 and 14	393 29%	365 27%	371 29.5%	440 30.7%	458 30.1%
15 and over	634 47%	627 46.4%	620 49.3%	715 49.9%	725 47.7%
Total	1 351	1 351	1 257	1 434	1 519

* See editor's note on p. 4.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b)-(d))

Paragraph 138 of the 1996 guidelines

483. Under the terms of the legislative reform plan submitted by the Reform Commission, a minor under the age of 16 can only be arrested in flagrante delicto or on the order of a judge. Before the minor can be arrested on the order of a judge, the parents or legal representatives must have been informed, unless doing so will render the order unenforceable. In any event, the police unit making the arrest must act with all discretion and communicate the fact immediately to the minor's parents, legal representatives or guardians.

484. The arrested minor must be brought before the judge immediately so that he or she can be heard. If it is not possible to do so, the police unit making the arrest must hand the minor over to the parents, legal representatives or guardians, or to the establishment in which he or she is interned, for the length of time strictly necessary to have the juvenile heard by the judge, and in no case longer than 24 hours. If doing so does not ensure that the minor will be brought before the judge or heard, the minor must wait, for a period not exceeding that mentioned above, in a nearby Ministry of Justice reception, education and training centre or in the facilities of the police unit with an appropriate room. During that period, the minor may be visited by parents, legal representatives or guardians and by his or her defence counsel.

485. At the end of the hearing (or at any subsequent time in the proceedings), the judge can order that the minor be held in a reception, education and training centre but only in cases in which there is serious reason to suspect that the minor will run away or commit other offences and if there are strong indications that he or she has committed an offence the penalty for which is a prison sentence of over five years.

486. In order to make sure that the system works, the Commission provides that the reception, education and training centres must be duly prepared immediately to admit minors arrested by the police who cannot be brought before the judge forthwith and those whom the judge sends them for holding in custody. The treatment granted to the children during their stay in the centres must take account of the general principles of the Convention (see paras. 496 ff. below).

Paragraph 139 of the 1996 guidelines

487. Custody in a reception, education and training centre is considered the most serious of all control measures and is used only in cases in which all the above-mentioned extreme circumstances have been met. When those conditions have not been met, the child awaits the outcome in the custody of the parents or legal representatives or in the care of a suitable person or social institution. Of the range of measures which the court can apply, internment in a Ministry of Justice institution comes last on the list, meaning that it is considered as the last resort and is only possible in cases in which the minor cannot be socialized by other means.

488. The statistical data on the measures applied to juveniles who have committed offences (table 63) confirm the trends mentioned in the initial report: a decrease in the number of cases in which the proceedings were handled with dispatch, the minor receiving a simple caution or being handed over unconditionally to his or her parents; the infrequent use of follow-up measures in the normal environment and of placement with a family or a social institution; and the steady number of placements in a Ministry of Justice establishment. The trend towards more frequent use of suspension of the proceedings (in principle, included among the "Other decisions" in table 63 below) has also held steady and even picked up. The practical effect of suspension is simply adjournment of the decision, the minor remaining in an undefined situation for a long time (often for years) with no tangible educational support.

Table 63*
Measures applied to minors under 16 having committed offences

	1991	1992	1993	1994	1995
Caution, handed over to the parents	919 68%	886 65.6%	826 65.7%	875 61%	883 58.1%
Follow-up in the normal environment	45 3.3%	71 5.3%	53 4.2%	86 6%	141 9.3%
Placement with families or in social institutions	13 1%	8 0.6%	26 2.1%	14 22.2%	21 1.4%
Placement in Ministry of Justice institutions	66 4.9%	34 2.5%	71 5.6%	63 4.4%	71 4.7%
Other decisions	337 25%	392 29%	307 24.4%	410 28.6%	442 29.1%
Total	1 351	1 351	1 257	1 434	1 519

Source: Justice Statistics Service.

The fact that the total percentage of measures exceeds 100 per cent is probably due to the possibility that several measures have been applied to the same person.

* See editor's note on p. 4.

Paragraph 140 of the 1996 guidelines

489. As has already been mentioned, the draft reform plan continues to consider deprivation of liberty as a solution of last resort. In addition, the possibility of depriving a child of liberty for an indeterminate period is absolutely ruled out. The child can therefore be ordered to be held in a reception, education and training centre for a maximum period of three months, renewable once for a further three months. The length of custodial placement in a reception, education and training centre is decided by the court with regard for the legal limits applicable (the Commission has proposed a maximum of two-three years, depending on whether the institution is custodial or semi-custodial, except in the cases of minors having committed a crime against persons, in which case the Penal Code provides for a sentence of imprisonment not exceeding eight years; in such cases the period of custodial placement may be extended to four years). The length of the placement period can be reduced during the review procedure, if justified by changes in the minor's behaviour, but in no event can it be increased.

490. So that children are not "forgotten" while serving terms of custodial placement in institutions, the Commission considers that the implementation of custodial placement measures must be monitored by the courts, and therefore proposes a third phase, enforcement, in proceedings concerning minors. It will be up to the judge of the court that decided on the measure, or the court that has jurisdiction in the area in which the establishment in which the minor has been placed is located, to carry out that phase. In addition, the phase will be implemented in accordance with an individual educational plan (see paras. 496 ff. below) drawn up by the technical team at the institution where the minor has been placed and approved by the judge. The institution must periodically inform the court on how the plan is being implemented and of any circumstance that could lead the measure to be reviewed.

491. The custodial measure can be reviewed every three months at the request of the minor or the parents, or at any other time by decision of the court. The court review is obligatory every year and even every six months if the minor has been placed in a custodial institution with special security conditions (see paras. 496 ff. below). The review can result in the measure being upheld, replaced by another, less restrictive measure, reduced or immediately lifted.

Paragraph 141 of the 1996 guidelines

492. According to the information provided by the Social Rehabilitation Institute, on 31 December 1996 875 minors were being held at institutions for minors run by the Ministry of Justice, 785 of them in reception, education and training centres and 90 of them in independent residential units (see para. 444 above). In accordance with decree law 689/95 of 30 June 1995, both kinds of institution are multi-purpose, their role being both to provide technical support to the courts, in particular in terms of observing and holding minors subject to court proceedings, and to implement the placement or internment measures handed down by the courts.

493. The percentage of minors placed in Ministry of Justice institutions by situation is given in table 64.

Table 64

**Situations resulting in the placement of minors
(December 1996)**

Ill-treatment, abandonment, lack of assistance	24.9%
Social maladjustment, begging, vagrancy, prostitution, debauchery, alcohol abuse, use of illicit drugs	35.6%
Criminal offences	37.8%

Source: Social Rehabilitation Institute.

These figures bring to light the high percentage of "juvenile victims" placed in Ministry of Justice institutions, whose aim is to receive children with serious behavioural problems, in particular criminal offenders. This "perverse effect" of the present juvenile justice system is often highlighted, and was also underscored in the above-mentioned report. It must be added that a high percentage (over 50 per cent) of minors held in the institutions are there on a temporary basis (custody, observation); this can be considered as a second dysfunction of the system.

494. The ages of the minors held in these institutions (boys and girls) is given in table 65.

Table 65

**Age and sex of minors held in institutions
(December 1996)**

	Boys	Girls	Total
Up to 12	71 11.5%	24 8%	95 10.4%
13-15	281 45.4%	113 38%	394 43%
16 and over	261 42.2%	157 52.7%	418 45.6%
Total	613	294	907

Source: Social Rehabilitation Institute.

These data reflect a trend towards an increase in the age of the minors concerned. In past, the percentage of young people 16 years or older was 36.5 per cent (1991), 40.7 per cent (1992), 38.7 per cent (1993), 36.5 per cent (1994) and 34.5 per cent (1995). The data also reveal the significant presence of girls among the minors held in institutions. This state of affairs is not

new and is the result of the fact that young girls are often institutionalized to protect them from situations or behaviour considered to be socially deviant, since they rarely take part in delinquent activities.

495. All the institutions attach great importance to schooling, since the children almost invariably have had very little schooling. According to the data published by the Justice Statistics Services, on 31 December 1995 a total of 666 of the 955 children interned at the time were being schooled in one way or another. By the same token, certified vocational training, which gives access to the labour market, is proceeding well and gradually replacing the uncertified training given previously. According to the Social Rehabilitation Institute, certificated training has developed as follows:

Table 66

Development of certified vocational training

	1992/93	1993/4	1994/5	1995/6	1996/7
Number of courses	6	8	14	10	26
Number of students	75	91	159	86	312

Source: Social Rehabilitation Institute.

Paragraph 142 of the 1996 guidelines

496. In order to protect the dignity and meet the special needs of children being held in reception, education and training centres, the draft reform plan provides that those centres should not only have adequate material conditions to house the children but also the means of providing them with emergency support, in particular psychological, medical and health support, and of running programmes adapted to the specific nature of their situations.

497. With regard to minors held in the reception, education and training centres under custodial placement measures, the Commission proposes that the centres be specialized within reasonable limits, so that they provide a better quality service and are better adapted to the problems faced by the minors in their charge. Their classification should take account both of the degree to which they are open to the outside (the distinction being made between custodial and semi-custodial institutions), and the specific problems which each one is able to deal with. They should be organized on a regional basis (the country being divided for that purpose into as many geographical zones as necessary), so that the children are not held too far from their families.

498. No matter what kind of establishment the minors have been placed in, the Commission considers that an individual educational plan for implementation of the measure imposed should always be drawn up, insofar as possible with the help of the minor and the parents or legal representatives; its execution, as has already been stated, will be monitored by the juvenile court.

499. The Commission believes that minors interned in semi-custodial institutions should be able to take part in daily activities outside and to spend holidays and weekends with their parents, relatives or other suitable persons. In custodial institutions, daily activities will take place within the institution. This should not, however, absolutely preclude the minors from attending school, receiving vocational training, working or taking part in leisure activities outside. They could also spend holidays with their parents, relatives or other suitable persons.

500. The court can only decide to place the child in a special security establishment in extreme cases, either for exceptional and clearly identified security reasons (when the minor is aged 14 or older and has committed an offence for which the Penal Code provides a prison sentence of over five years or three or more offences for which the maximum sentence provided for in the Code exceeds three years). In an establishment of that kind - one small unit is planned - all activities would take place inside, at least during the initial period of the custodial measure. When it orders that the custodial measure be served in an institution of that kind, the court should re-examine the situation every six months and as soon as possible take the decision to transfer the minor to a more open institution.

Paragraph 143 of the 1996 guidelines

501. The Reform Commission agrees that young people over the age of 16, who may be held accountable for criminal offences, be subject to standard punishment. It also provides, however, for the creation of a specific penalty for young people aged between 16 and 21: placement in a detention centre, under a full custody, semi-custodial or weekend custody regime. These detention centres are to be small institutions functioning along the lines of the reception, education and training centres, in particular with regard to the educational and training nature of the programmes to be developed and their openness to the outside.

502. The Commission further proposes that persons under 18 sentenced to imprisonment should always serve their sentences in penal establishments designed specially for young people or in sections of ordinary penal establishments set aside for that purpose. Proposals for the rules to be adopted by such establishments and sections are currently being finalized, in particular with regard to the ways in which they should differ from adult prisons. The subject of detainees under the age of 18 was expressly studied by the Commission, which will draw up proposals based on that rather particular situation.

503. In order to guarantee that the detainees have access to an independent entity, decree law 78/76 of 29 October 1976 provides for the direct intervention by the court while the prison sentence is being served, obliging the judge to visit the penal establishments at least every month and to meet the detainees who have signed up for such meetings. The same judge must also take part in meetings of the establishment's technical council at which decisions of particular importance for the detainees are evaluated. The Reform Commission's mandate also covers the study and review of the Code of Penal and Penitentiary Procedure with a view to extending the scope of court intervention in the execution of prison sentences. The Commission can also suggest other, independent mechanisms to follow up on the conditions under which sentences are served.

504. The Justice Ombudsman's Office, to which the detainees can apply without restriction when their rights are not respected by the prison administration, pays particularly close attention to prison conditions. It published an extensive report on the subject in 1996, following visits carried out to all penal establishments.

Paragraphs 144 and 145 of the 1996 guidelines

505. The exercise of the right to be assisted by counsel in criminal proceedings was mentioned in the initial report (CRC/C/3/Add.30, para. 210). The same holds true for the Reform Commission's proposals (see paras. 481-484 above) with regard to recognition of the rights of minors faced with the prospect of detention, including the obligation to bring them immediately before the court so that they can be heard by the judge in the presence of counsel.

506. The Reform Commission is currently finalizing its proposals to reform the right of detainees (children or adults) to be assisted by counsel with regard to execution of the penalty. That assistance will cover not only court execution proceedings, (which take place, as has been stated, before the court responsible for post-sentencing dispositions), but also life within the prison itself, in particular the administrative procedure for applying disciplinary sanctions. In that respect, the Commission considers that those under 18 must have the assistance of counsel throughout the period during which the prison sentence is being executed.

Paragraph 146 of the 1996 guidelines

507. While the number of convicted prisoners under 18 is not a source of concern, the opposite holds true for the number being held on remand, as shown in table 67.

Table 67

Detainees aged between 16 and 17, by prison situation and sex

	Boys	Girls	Total
On remand	92	11	103
Convicted	7	1	8
Total	99	12	111

Source: Department of Prison Services.

508. As mentioned in the initial report (para. 208), it is very difficult in practice to separate young people being held on remand from adults in the same situation, as stipulated by the Custodial Measures (Enforcement) Act. A greater effort has been made, however, to separate young convicted prisoners under 21 (in some cases 25) years of age from adult convicted prisoners. The special penal establishment of Viseu, created by decree law 190/97 of 29 July 1997, was recently added to the establishments used for the execution of prison sentences mentioned in the initial report. This special prison has been located in a building occupied until recently by a rehabilitation establishment for girls set up in the 1950s and considered inappropriate in terms of modern methods of receiving and educating minors.

3. The sentencing of children, with particular reference to the prohibition of capital punishment and life imprisonment (art. 37 (a))

Paragraphs 147 and 148 of the 1996 guidelines

509. The information contained in the initial report (CRC/C/3/Add.30, paras. 212-217) remain valid; it is supplemented with the information set forth in the preceding sections.

4. Physical and psychological recovery (art. 39)

Paragraphs 149 and 150 of the 1996 guidelines

510. These issues have already been covered in previous sections.

C. Children in situations of exploitation

1. Economic exploitation of children, including child labour (art. 32)

Paragraph 151 of the 1996 guidelines

511. Although the legal framework mentioned in the initial report (paras. 218 ff.) remains valid, it must be emphasized that the Portuguese Constitution explicitly prohibits school-age children from working. The recent revision of the Constitution, referred to throughout the present report, refers to that prohibition not only as a means of guaranteeing the right to an education, but also as a general norm for the protection of children.

512. That prohibition, which since 1986 had been included in the section on cultural rights and is now contained in the section on social rights, has had a major impact, given that there have been nine years of compulsory schooling since 1986 (law 46/86 of 14 October 1986), since 1 January 1997 it has not been possible to employ anyone under age 16. The first pupils to have benefited from the system were those who started their compulsory schooling in the 1987/88 academic year. Those pupils will have finished their 9 years of compulsory schooling in the 1996/97 academic year. This being the case, it was considered that the conditions for ratification of ILO Convention No. 138 had been met. In July 1997, the ratification proposal was published in the official gazette, and the process of ratification is expected to be completed shortly.

Paragraphs 152 and 153 of the 1996 guidelines

513. Generally speaking, the same legislation still applies, namely decree law 396/91 of 16 October 1991 mentioned in the initial report (paras. 218 ff.). Article 152 of the Penal Code, ratified by decree law 48/95 of 15 March 1995, explicitly establishes and punishes the offence of ill-treatment or overwork of minors. Under this provision, anybody who employs a minor in dangerous, inhumane or prohibited activities or overburdens him or her with work is liable to a prison sentence of between one and five years. Under article 152, paragraph 3, this

sentence is aggravated in the event of serious harm to the minor's health or the death of the minor. In such cases, the penalty is between 2 and 8 years' or 3 and 10 years' imprisonment respectively.

514. The Office of the High Commissioner for the Promotion of Equality and the Family has informed the Ministry of Justice that, in its opinion, any revision of the Penal Code should separate child labour and the crime of ill-treatment, given the enormous importance of the two prohibitions and the wide range of components making up each of those acts. In addition, children are usually ill-treated within the family, whereas overwork occurs in the context of a subordinate working relationship; the perpetrators, the circumstances and the acts involved therefore differ widely, making it entirely justified, for systematic reasons, to have two separate provisions.

515. The "Time to Grow" campaign referred to in the initial report was extended throughout 1994 and 1995. Children and young people were invited to contribute drawings, essays or poems on the topic proposed. Very many did, and in several parts of the country the Institute for the Improvement and Inspection of Working Conditions (IDICT) published their most representative work with a view to heightening the awareness of the general public. The campaign had a great impact on public opinion; several non-governmental organizations participated, among them the National Federation for Action on Child Labour, the umbrella organization for several non-governmental organizations including the Portuguese central trade union organizations: the General Workers Union (UGT) and the General Federation of Portuguese Workers/Inter-Union (CGTP/IN).

516. In February 1996 a report on child labour in Portugal was published by a working group coordinated by the Child Support Institute and the National Federation for Action on Child Labour; the report is the result of contacts established with International Working Groups on Child Labour, the Defence for Children International movement and the International Society for the Prevention of Child Abuse and Neglect "with a view to analysing and discussing the complex reality of child labour in Portugal". Representatives of trade unions, IDICT, the education ministry and the Ombudsman's Office also took part in the working group.

Paragraph 154 of the 1996 guidelines

517. The struggle against child labour is of major concern to the public authorities. The ministries of justice, education, training and employment, and solidarity and social security issued joint orders, published in the official gazette, second series, of 2 April 1996, establishing an inter-ministerial working group for the purpose of drawing up an integrated operational plan to fight the phenomenon and to study and propose legislative measures aimed at eliminating child labour. The working group sought to establish an unequivocal definition of child labour, since it can be confused with the work of minors; the two concepts therefore had to be unified. It was considered that child labour should be defined as, on the one hand, the activity carried out by children in the context of a subordinate working relationship and likely to harm their physical or psychological development in that it prevents them from acquiring knowledge and thus from developing their intellectual capacities and aptitudes and, on the other hand, the activity preventing children from taking advantage of childhood in play.

518. Some of the working group's proposals were accepted, and on 10 September 1996 the National Commission to Combat Child Labour was founded. The Government, through the Ministry of Training and Employment, has shown great interest in the Commission's work and expressed the wish to do everything it could to guarantee its success. The Commission is made up of representatives of the ministries for training and employment, solidarity, justice and education, of the Office of the High Commissioner for the Promotion of Equality and the Family and of representatives of the social partners (joint orders published in the official gazette, second series, on 27 November 1996).

519. The Commission's work is aimed above all at establishing teams working with the *concelhos* to promote direct intervention, namely in the schools, since prevention is fundamental; specific cases of failure and drop-out are listed for two purposes: first by means of concerted action by different technicians and services, to prevent pupils whose performance is inadequate from dropping out, and second, to induce young people who have left the school system before finishing their compulsory schooling to return.

520. At the same time, the General Labour Inspectorate (IGT), whose director is a member of the National Commission to Combat Child Labour, has set as a priority objective the control of the illegal use of child labour. The nature of the phenomenon in Portugal is revealed by IGT statistics. The districts of Braga, Porto and Aveiro are those with a specially high incidence of child labour, representing 80 per cent of the cases ascertained; almost all of those cases were found in small businesses whose organization is usually minimal or non-existent. The economic sectors with the greatest number of illegal situations included the garment, footwear, hotel and construction industries.

521. It must nevertheless be pointed out that since 1992, the year in which the minimum legal age was set at 15, there has been a significant decrease in the number of cases in which 10-12-year-olds have been employed; between 1992 and 1995, that age was between 13 and 14. In most cases, the minors were working at light and simple tasks that were repetitive and not likely to prepare them to enter the labour market. Between 1993 and 1995, about 85 per cent of those minors had finished their compulsory schooling.

522. According to Portugal's report on the International Covenant on Economic, Social and Cultural Rights, a steady shift of child labour has been observed towards family-centred or home-based work, thereby intensifying the clandestine nature of that kind of work and making it more difficult to detect.

523. In those conditions, child labour in the context of subordinate working relationships is currently limited in scale and falling in Portugal. A trend has also been observed towards a decrease in the phenomenon, which is currently limited to marginal and clandestine sectors of the economy and survives only in certain poorly organized and small businesses and in domestic work carried out to augment the household income.

524. It is therefore difficult to fight child labour only through the General Labour Inspectorate, and preventive measures have proved to be more effective, above all those affecting the root causes of child labour; equally effective have been the combined efforts of education, social security and youth policies.

525. The National Commission to Combat Child Labour, because of its diversified composition, can act as a catalyst and thereby enable the teams in the *concelhos* to establish partnerships, in particular with the local committees for follow-up on the minimum guaranteed wage and the minors' protection boards, under the auspices of local communities and in close cooperation with the schools, with a view to uniting and coordinating the above-mentioned efforts.

526. It should also be underscored that the National Anti-Poverty Programme, adopted in order to guarantee respect for the general principles of the Convention, in particular non-discrimination, the higher interests of the child, the right to life, to survival and to development, is the source for a range of social support projects that take the tangible form of integrated action plans helping to limit the scope of the phenomenon.

527. The National Commission to Combat Child Labour has an action programme comprising quarterly activity plans that are being developed as pilot projects in nine *concelhos* in the northern region and in two in the Lisbon area. The programme's main objectives are to detect, identify and define situations and causes of child labour and to develop the activities required to bring a halt to a situation of risk to the child. Under the programme, the measures foreseen are to be applied on the basis of a strategy of intersectoral coordination, in view of the great variety of situations giving rise to the phenomena; the programme's target institutions are enterprises, the family and schools.

528. The Commission has an intervention model which was the product of a long process of planning, protracted debate and several field tests (in the north of the country) and is based on a number of assumptions. On the basis of the tests, and following numerous contacts with those in charge of local communities and other entities (again, it must not be forgotten that the model concerns only the *concelhos* of the country's northern region), the decision was taken to establish:

(a) A team acting at the level of the *freguesia* - or parish, the smallest administrative division in Portugal, made up of its president, first cycle school principals and the parish priest;

(b) A team acting at the level of the *concelho,* essentially technical in nature and made up of representatives of the local community concerned and the different government sectors.

The aim is to give impetus to activities to eliminate child labour throughout the *concelho*, in particular support and solidarity with the *freguesia* teams.

529. The tables below show the changes in the child labour situation in Portugal in the 1990s, and refer to the inspections carried out.

Table 68

Age	1990	%	1991	%	1992	%	1993	%	1994	%	1995	%	1996	%
-10	1	0.3	3	1.0	-	-	-	-	-	-	-	-	-	-
10-12	15	5.0	10	3.5	9	3.2	4	1.2	2	1.7	3	4.0	2	1.6
12-13	54	18.0	61	21.3	26	9.2	22	6.5	9	7.4	8	10.8	4	3.3
13-14	230	76.7	212	74.2	123	43.6	94	27.6	37	30.6	25	33.8	34	28.1
14-15	-	-	-	-	124	44.0	221	64.7	73	60.3	38	51.4	81	67.0
Total	300	100	286	100	282	100	341	100	121	100	74	100	121	100

Source: General Labour Inspectorate.

Table 69

Indicators	1988	1989	1990	1991	1992	1993	1994	1995	1996
No. of specific visits	-	-	4 861	4 876	2 147	3 666	5 514	2 537	4 090
No. of workers[a]	-	-	114 917	111 924	38 824	64 250	97 749	46 713	67 081
No. of establishments[b]	228	235	254	222	212	261	93	62[i]	106[l]
No. of workers[c]	5 538	5 494	5 671	5 122	3 957	5 528	1 548	1 015[j]	1 674[m]
No. of minors under 15	290	296	330	286	282	341	121	74[k]	121
Incidence[h]	-	-	-	0.3	0.7	0.5	0.1	0.2	0.2
Total number of inspections[d]	111 450	108 519	111 109	100 865	98 517	87 456	85 201	71 228	62 255
Total number of establishments[e]	84 804	80 292	91 309	65 522	82 019	76 311	69 529	53 773	46 824
Workers[f]	2 176 565	2 211 396	2 037 183	1 830 027	1 816 090	1 364 043	1 231 227	886 447	803 912
Minors under 18	83 113	76 789	62 905	57 732	40 780	25 849	15 416	7 872	6 393
Minors under 15[g]	339	296	324	295	282	394	124	103	198
Incidence (under 18)	3.8	3.5	3.1	3.2	2.3	1.9	1.3	0.9	0.8
Incidence (under 15)	0.4	0.4	0.5	0.5	0.7	1.5	0.8	1.3	3.1
Total number of warnings	21 275	17 651	21 999	23 607	21 898	21 120	17 591	15 878	15 414
Total number of warnings: minors	340	339	387	294	252	352	164	103	173
Minors' incidence	1.6	1.9	1.4	1.2	1.2	1.7	0.9	0.6	1.1

Source: General Labour Inspectorate.

[a] No. of workers covered by the specific visits.
[b] No. of establishments in which minors under 14 were found (from 1992 onwards, under 15).
[c] No. of workers in those establishments.
[d] Total number of inspections carried out in all IGT areas of competence.
[e] Total number of establishments.
[f] Total number of workers
[g] Total number of workers under 14 (from 1992 onwards, under 15).
[h] Incidence = (No. of unlawful situations/No. of workers covered) X 100 of the total of workers covered by the specific visits.
[i] Includes four businesses reported for a second offence.
[j] Includes 61 workers in the four businesses reported twice, counted twice.
[k] Includes one minor found twice in the same business.
[l] Includes one business found twice in the same unlawful situation.
[m] Includes 11 workers in that business, counted twice.

2. Drug abuse (art. 33)

Paragraphs 155 to 157 of the 1996 guidelines

530. The legal framework set forth in paragraphs 226-230 of the initial report and the entities set up to fight drug abuse, still exist. The only thing to be added is that numerous projects have been established for cooperation with government bodies and non-governmental organizations. Most of them involve the participation of Project Life and the regional social security centres, and are carrying out several operations in the schools in cooperation with the centres for drug abuse and prevention studies in Lisbon, Porto and Coimbra.

531. The Ministry of Solidarity and Social Security is making an indirect contribution to the basic prevention of drug use and abuse by encouraging, through the civil service integrated investment plan and cooperation agreements concluded with non-governmental organizations, the creation of a social support framework for children and young people, in accordance with local needs, giving priority to the most underprivileged population groups.

532. The Ministry of Solidarity and Social Security intervenes directly in the social reintegration of young people, a fundamental aspect in that it constitutes the last step in the process to rehabilitate drug addicts and aims to prepare them to re-establish relations with the family, school, the community and the workplace. The Ministry allocates sums for investment in and maintenance of activities in supervised apartments and direct social support teams, in accordance with decree law 193/96 of 15 October 1996, the joint orders issued by the Council of Ministers and the ministries of health, training and employment and solidarity and social security on 9 October 1996, published in the official gazette, second series, No. 235, of 10 October 1996.

533. Supervised apartments or halfway houses are premises for drug addicts receiving group therapy and facing problems of reintegration; the premises provide support during the transitional phase (reintegration into the family, society, the school and job); that support is provided by social service technicians and monitors and includes psychological and psychiatric consultations.

534. Direct social support teams are teams working on the adjustment to different situations. They work directly with people with problems of drug addiction and their families and, as a general rule, in the geographical areas affected by the problem.

535. Social security provides financial support to the tune of about 80 per cent of the cost of the measures.

3. Sexual exploitation and sexual abuse (art. 34)

Paragraphs 158 and 159 of the 1996 guidelines

536. The 1982 Penal Code, which was in force when the initial report was written, was amended in 1995. While no change was made to the fundamental principles and basic philosophy underlying the Code (which constitute, as is stated in the preamble to decree law 48/95 of 15 March 1995 approving the revised version, "a code that is democratic in

origin and framed by the rule of law"), very significant amendments were made with regard to sexual crimes, in particular those committed against children, the penalties for which were increased. In doing so the legislature acted in agreement with the professional sectors working on protection of the child and with public opinion, which had for some time been demanding greater criminal-law protection against this type of sexual abuse. In fact, the victimization of children in general and in the sexual sphere in particular has been a source of concern in recent years, both in professional circles working with children and in society in general. The media are also attaching greater importance to the issue.

537. The 1982 Penal Code considered sexual crimes as "crimes against the values and interests of life in society"; the 1995 version of the Code treats them as crimes against the person and classifies them in a separate section entitled "Crimes against freedom and sexual self-determination". Freedom and sexual self-determination, in the case of children under a certain age and whose freedom in general (and consequently in the sexual sphere) is still at a formative stage, are understood as the right to be shielded from any aggressive sexual conduct.

538. The reform enshrines a liberal sexual criminal law, guided by the principle that, in the case of adults, sexual activities carried out in private and by consent are not crimes. Thus, behaviour such as prostitution, pornography and homosexuality is not criminalized if it is carried out in such a way as not to encroach on the sexual freedom of any other person, and in particular by adults who gave their consent freely. Sexual activities are criminalized only if they are carried out by force and infringe a person's free will, in particular when the perpetrators act violently, use serious threats or render the victim unconscious or unable to resist in order to practice such acts.

539. Under the 1995 Penal Code, all the acts that constitute a crime when committed against an adult (in particular compulsion and rape) are considered aggravated crimes if the victim is under the age of 14. The Code also provides for a specific category of crime - known as "crimes against sexual self-determination" - covering certain acts that constitute a crime only when committed against a minor or in respect of a minor. The child's age, i.e. whether he or she is under or over 14 years of age, is a decisive factor in qualifying the act as a crime.

540. With regard to children under the age of 14, the Penal Code prohibits any contact of a sexual kind, on the grounds that under that age children are not free to consent to sexual relationships; as a result, it is immaterial whether the acts were carried out with or without consent. The Penal Code also punishes any activity likely to give rise to sexual disturbance. Thus, anyone carrying out an *acto sexual de relevo* (significant sexual act) on or towards a minor under 14 years of age or leading a minor to engage in such an act has committed the crime of sexual abuse of a child. The penalty is a prison sentence of one to two years or, in cases where the act consisted of copulation or anal intercourse, of 3 to 10 years (art. 172, paras. 1 and 2). By the same token, anyone carrying out an act of exhibitionism within view of a child under 14 years of age or using oral or written obscenity or pornographic representations or objects to influence the child, or using the child for pornographic pictures, films or recordings (art. 172, para. 3) has committed the crime of sexual abuse of a child. The penalty for such acts is up to three years in prison, or from six months to five years in prison if the act was carried out for profit (art. 172, paras. 3 and 4).

541. For this crime, as with most sexual crimes, be they against adults or children, criminal proceedings are instituted on the basis of a complaint by the victim (or the victim's legal representative if the victim is under 16); when the victim is under 12 years of age, however, the government prosecutor can start proceedings independently of a complaint, "for special reasons of public interest" (art. 178, para. 2). "Public interest" is understood to refer to the interest of the child, as it is already understood at present in certain quarters and as is obviously intended by the wording of the relevant provision in the final draft revision of the Penal Code.

542. The Office of the High Commissioner for the Promotion of Equality and the Family has sent the Ministry of Justice an opinion on these issues in which it underscores the need to give particularly careful consideration to the issues relating to a complaint in the event that the victim is a child. Indeed, although the 1995 revision of the Penal Code endeavoured to meet society's growing demand for harsh penalties for the perpetrators of sexual crimes against children, and although it generally aggravated the penalties for such crimes, several criticisms have been made of the amendments to article 178 concerning the right to file a complaint.

543. Several non-governmental organizations claim that, when the victims are children under the age of 12, sexual crimes should always be considered to be public in nature and thus liable to criminal-law proceedings, whether or not a complaint has been made. They also find that the right to file a complaint should vest in the child after the age of 14 and not in the child's legal representative.

544. As of the age of 14, criminal law considers that a person is in principle free to decide about his or her sexual relationships, reserving the right to interfere in cases in which the perpetrator is in a situation of authority over the minor and is likely to harm the minor's ability to decide. Thus, acts constituting the crime of sexual abuse of minors are treated as sexual abuse of adolescents (art. 173), the penalty for which is from one to eight years, in prison, in the cases described in paragraphs 1 and 2 of article 172, or up to one year in prison in the cases described in paragraph 3 of article 172 (up to three years if committed for profit), when they are committed against:

(a) Minors between the ages of 14 and 16 placed in the care of the perpetrator for educational or assistance purposes;

(b) Minors between the ages of 16 and 18 placed in the care of the perpetrator for educational or assistance purposes, the perpetrator having abused his or her role or position.

545. The reform of the Penal Code recognizes two other limits to the principle according to which the minor having reached the age of 14 is free to decide on his or her sexual relations. The first concerns homosexual relations, to which the minor cannot validly consent before the age of 16 (art. 175). The second concerns the crime of violent rape (*estupro*). The Penal Code maintains the criminal character of copulation with a minor aged between 14 and 16 when that act was carried out by taking advantage of the minor's inexperience (art. 174).

546. The protection afforded to juveniles against their exploitation in prostitution has been weakened by the reforms of 1975, now that the crime of involving a minor in debauchery and prostitution or encouraging, promoting or facilitating prostitution has an upper age limit of 16.

Above this age, the protection afforded to the child is the same as that provided for adults, namely, the crime is only punishable if the perpetrators is acting professionally or with gainful intent, or taking advantage of the victim's situation of abandonment or economic hardship.

547. This year, the current Government submitted a bill on the revision of the Penal Code to the Assembly of the Republic, proposing several amendments to its provisions on sexual crimes against children, to bring it into line with recent international guidelines and resolutions to combat paedophilia and the sexual exploitation of children for commercial purposes, such as recommendation R (91) 11 of the Council of Europe, the Declaration and Agenda for Action adopted by the 1996 Stockholm World Congress (at which our country was represented) and, in particular, the Common Plan of Action adopted by the European Union.

548. Accordingly, the bill proposes extending the range of the crimes of sexual abuse of children and adolescents, by imposing the same punishment on oral intercourse as that provided for copulation and anal intercourse and by criminalizing the performance not only of exhibitionist, but also of indecent acts before a minor. In addition, besides the use of children and adolescents in the production of pornographic photographs, films or recordings, the display or transfer of such material on any basis would also be a crime.

549. The bill submitted by the Government also makes provision for the application of Portuguese criminal law outside the national territory, to cover crimes committed abroad by Portuguese who are normally resident in Portugal, irrespective of the nationality of the victim and of whether or not the act in question is a crime under the legislation of the country in which it has been committed. This proposed revision of the Penal Code has not been approved by Parliament, for various reasons put forward by the opposition political parties. The reforms advocated in the area in question have, however, been accepted without reservation. The proposal on the revision of the Penal Code will be resubmitted to the Assembly of the Republic.

550. The issue of sexual violence has been widely debated, as already noted, in special meetings on the issue, in training courses and in the media. In February 1997, a two-day workshop on the sexual abuse of minors was held in Lisbon, under the auspices of the Family Planning Association. In November 1996, the Family Planning Association had also published a brochure on the issue, in preparation for the workshop, which drew on contributions from experts from different fields with experience in the treatment of such cases.

4. Sale, trafficking and abduction (art. 35)

551. Currently, trafficking in persons carries a penalty of between two and eight years' imprisonment. Anyone who, through violence, serious threats, stratagems or deceit causes another person to engage in a foreign country in prostitution or an *acto sexual de relevo* (significant sexual act), by taking advantage of that person's situation of abandonment or need, is deemed to have committed this offence. If, however, the victim is aged under 14 and the perpetrator is acting professionally or with gainful intent, the penalty incurred is between 2 and 10 years' imprisonment.

Paragraphs 161 and 162 of the 1996 guidelines

552. Cases of trafficking in children are rare in Portugal. Isolated cases have been detected in coastal areas, where the children came from derelict backgrounds, sometimes without families. Given the particular nature of this phenomenon, there are strong reasons to suspect that the true scale of the traffic in children for the purposes of prostitution and pornography is not known. Accordingly, several non-governmental organizations, including the Child Support Institute and the National Federation for Action on Child Labour, are conducting measures for the benefit of street children, the group most targeted for recruitment for the purposes of sexual exploitation, prostitution and pornography.

5. Other forms of exploitation (art. 36)

Paragraph 163 of the 1996 guidelines

553. In the initial report, we drew attention to measures to prevent and control begging (para. 237). Recognizing that most of the homeless in Lisbon were young people, the city authorities and the central Government have decided to work together to address the problem. In this context, attention should be drawn to the CAIS project for homeless people of greater Lisbon, backed by the Lisbon City Council and the State Secretariat for Youth.

554. Begging is, however, more widespread among the Gypsy population, particularly in certain areas of the country. The causes of begging are varied and complex and it is a difficult problem to address since it requires a comprehensive approach: any attempts to solve the problem in a piecemeal and uncoordinated manner are bound to fail. Given that begging is a consequence of a number of factors related to poverty and exclusion, only a comprehensive and multi-sectoral approach is likely to succeed.

D. Children belonging to a minority or an indigenous group (art. 30)

Paragraph 165 of the 1996 guidelines

555. We have already pointed out that the Portuguese population has a certain homogeneity, as evidenced by the use of a single language throughout the national territory. As stressed in our initial report, until recently, the largest ethnic minority was the Gypsy community, which still preserves its distinct features and remains closely knit by its culture and its social organization. In the absence of exact figures, researchers generally estimate the Gypsy population (largely made up of young people) as some 40,000-50,000 strong.

556. During the 1980s, major changes took place in the demography of Portugal, since when the country has had a sizeable foreign population. According to figures from the most recent census (population statistics from 1991), the population of Portugal is 9,862,540. In 1985, the number of aliens legally resident in Portugal was some 80,000, but following the process to regularize illegal aliens, which was completed in December 1996, this figure has risen to 183,055.

557. Measures taken to respect the cultural and religious rights of these communities are covered in paragraphs 54 ff. dealing with the application by the State of the principle of non-discrimination.

558. Where language is concerned, given that the immigrant communities resident in Portugal almost exclusively derive from Portuguese-speaking African countries, and from Brazil and Timor, it is understandable why little attention has been given to this problem, which continues to pose difficulties in teaching such children to read and write, leading to the deprivation of the right of the child to preserve his or her own language.

559. Mention should be made here, once again, of the great importance attached to the establishment of the Office of the High Commissioner on Immigration and Ethnic Minorities, with the mandate, in the future, of gathering data for a thorough analysis of appropriate social, cultural and religious measures designed to give effect to the rights of the children.